

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.42541 of 2013

Arising Out of PS.Case No. -2077 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Krishna Nandan Prasad Sinha, S/o Late Ram Bhajan Prasad Sinha
2. Chinta Sinha W/o Krishna Nandan Prasad Sinha
3. Priyanka Rani D/o Krishna Nandan Prasad Sinha and W/o Dr. Sunil Kumar.
4. Sujata Rani D/o Krishna Nandan Prasad Sinha and W/o Sri Lalan Kishore Prasad
All residents of Bank Mens' Colony, Chitragupta Nagar, P.S- Kankarbagh, Distt-
Patna.

.... Petitioners

Versus

1. The State of Bihar
2. Sandhya Kumari W/o Rajiv Nandan, D/o Shri Ajay Kumar Singh, Resident of
Mohalla-Lalji Tola, P.S- Gandhi Maidan, Distt- Patna.

.... Opposite Parties

With

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Criminal Miscellaneous No. 23306 of 2014

Arising Out of PS.Case No. -2077 Year- 2011 Thana -PATNA COMPLAINT CASE District-
PATNA

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Rajeev Nandan, Son of Shri Krishna Nandan Prasad Sinha Resident of Village -
Bank Mens' Colony, Chitragupta Nagar, P.S.- Kankabagh, District - Patna

.... Petitioners

Versus

1. The State of Bihar
2. Sandhya Kumari, Wife of Rajeev Nandan, daughter of Shri Ajay Kumar Singh,
Resident of Mohalla - Lalji tola, P.S.- Gandhi Maidan, District -Patna

.... Opposite Parties

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Appearance :

(In Cr.Misc. No.42541 of 2013 and in Cr. Misc. No.23306 of 2014)

For the Petitioners : Mr. Deepak Kumar, Advocate

For the State : Dr. Mayanand Jha, APP

For the opposite party no.2: Mr. Ajit Kumar & Krishna Chandra, Advocates

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 11-04-2017



In both these applications the challenge is to the order dated 11.05.2012 passed by the learned Sub-divisional Judicial Magistrate, Patna in Complaint Case No. 2077(C) of 2011 whereby the petitioners have been summoned to face trial for the offences punishable under Sections 498-A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

2. In Cr. Misc. No. 42541 of 2013, the petitioners are father-in-law, mother-in-law and sisters-in-law respectively of the victim complainant whereas in Cr. Misc. No. 23306 of 2014, the petitioner is her husband.

3. A joint compromise petition on behalf of the parties has been filed in Cr. Misc. No. 23306 of 2014.

4. It is submitted by the learned counsel for the petitioners that with the intervention of well-wishers of both the parties the complaint case in question as well as all other cases have been compromised between the parties irrespective of their claim and counter claim. He submitted that due to amicable settlement of the case neither the complainant nor the accused petitioners are willing to contest the case.

5. Learned counsel appearing for the complainant-opposite party no.2 echoed the submission made by the learned counsel for the petitioners.



6. In view of the submissions made above on behalf of the petitioners and the complainant, it is to be seen as to whether this Court, in exercise of its inherent jurisdiction under Section 482 of the Cr.P.C., may quash the complaint only on the basis of compromise arrived at between the parties.

7. In what cases power to quash the criminal proceeding or complaint or FIR under Section 482 of the Cr.P.C. may be exercised where the offender and the victim have settled their dispute was examined by a three Judge Bench of the Supreme Court in **Gian Singh vs. State of Punjab and Anr. [(2012) 10 SCC 303]**. In the said case, the Supreme Court recognizing the need of amicable resolution of disputes observed as under:-

“ ... Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime.



Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. **But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case**



would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

(emphasis mine)

8. The aforesaid judgment has been reiterated by the Supreme Court in **Narinder Singh vs. State of Punjab [(2014) 6 SCC 467]**. In that case, the Supreme Court has laid down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Cr.P.C. while accepting the settlement and quashing the proceedings:-

“29.1. Power conferred under Section 482 of the Code is to be distinguished from the power



which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or
- (ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the



offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It



would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at



immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has



already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime”.

(emphasis mine)

9. Regard being had to the ratio laid down in the aforesaid decisions of the Hon’ble Supreme Court, since the parties have amicably settled the dispute outside the court and the matter arises out of matrimonial discord, in the opinion of this Court, in order to secure the ends of justice, the prayer of the petitioners deserves to be allowed.

10. Accordingly, the Complaint Case No. 2077(c) of 2011 and the entire proceedings arising out of the said complaint including the order dated 11.05.2012 are hereby quashed.

11. These applications stand allowed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.04.2017
Transmission Date	19.04.2017

