

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50507 of 2014

Arising Out of P.S.Case No. -1293 Year- 2014 Thana -SIWAN COMPLAINT CASE District-
SIWAN

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1. Afsar Khan @ Mallick Mohammad Afsar Khan, Son of Captain Hafiz Khan
2. Md. Hafiz @ Captain Hafiz Khan, son of late Waheed Khan
3. Shair Shah Kallu @ Ayub Khan, Son of Captain Hafiz Khan
4. Anisa Khatoon, wife of Captain Hafiz Khan
5. Farukh Khan, Son of Captain Hafiz Khan
6. Belal Khan, Son of Captain Hafiz Khan
All resident of village- Majhaulia Raj Tola, Ali Nagar, P.S.- Salempur, Distt.-
Deoria

.... Petitioner/s

Versus

1. The State of Bihar
2. Nasrin Khatoon, Daughter of Md. Amin, wife of Md. Afsar Khan, resident of
village- Lahuaan, P.S.- Barharia, District- Siwan

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Md. Sufyan, Advocate.
For the opposite party No.2: Mr. Yashraj Bardhan, Advocate.
For the State : Mr. Anil Kumar Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 08-01-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 6.9.2014 passed by the learned Sub Divisional Judicial Magistrate, Siwan, in Complaint Case No. 1293 of 2014 by which the learned Magistrate after holding enquiry has found *prima facie* case against the petitioners for the offences under Sections 498A, 406/34 of the Indian Penal Code and Section 4 of Dowry Prohibition Act,

2. Heard learned counsel for the petitioner and



learned counsel for the State.

3. Learned counsel for the petitioners has submitted that compromise has taken place between husband and wife and both are living together, in support of which, they have filed necessary petition before the court below which has been annexed as Annexure-6 to the supplementary affidavit. From perusal of Annexure-6, it appears that both husband and wife are living together since 17.6.2016 along with their children.

4. It is mentioned in paragraph-6 of the supplementary affidavit that matter has been compromised between husband and wife and they have no grievance with each other. The wife is living with her husband at the place of posting at Gaya Airport.

5. In such circumstances, this Court is of the view that continuance of criminal proceeding against petitioner Nos. 2 to 6 who are family members of the husband of the complainant, is only abuse of the process of Court and mere harassment to them.

6. Therefore, the impugned order dated 6.9.2014 with respect to petitioner Nos. 2 to 6 passed by the learned Sub Divisional Judicial Magistrate, Siwan, in Complaint Case No. 1293 of 2014 and entire criminal proceeding against them, is hereby, quashed.

7. So far case of petitioner No. 1 is concerned, he is



directed to appear in court below with his wife and file necessary compromise petition, and in the event, the court below finds, that both of them have arrived at compromise, the court below will pass appropriate order in accordance with law and dispose of the same expeditiously.

(Sanjay Priya, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	11/01/2018
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