

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40900 of 2015

Arising Out of PS.Case No. -39 Year- 2014 Thana -MAHILA P.S. District- SARAN

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Monika Singh, daughter of Dilip Kumar Singh, Resident of Village- Narendrapur,
P.S.-Andar, District-Siwan, presently residing at E-256A, Khutdih Sonari (East)
P.S.- Sonari Jamsedpur, District-East Singhbhum, Jharkhand,.

.... Petitioner

Versus

1. The State of Bihar.
2. Nutan Kumar Singh, daughter of Samarendra Kumar Singh, resident of Mohalla-
Warehouse Gudari Bazar Main Road, P.S.- Bhagwana Bazar, Chapra District-
Saran.

.... Opposite Parties

With

Criminal Miscellaneous No. 41104 of 2015

Arising Out of PS.Case No. -39 Year- 2014 Thana -MAHILA P.S. District- SARAN

- =====
1. Priyanka Singh, daughter of Dilip Kumar Singh & wife of Sri Sujit Kumar Singh
 2. Sujit Kumar Singh, son of Umesh Singh
- Both residents of village- Neura, P.S.- Maner, District- Patna, presently residing at
Mohalla-Bagbera Colony, Road No.5, Jamshedpur, District-East Sighbhum,
Jharkhand.

.... Petitioners

Versus

1. The State of Bihar.
2. Nutan Kumari Singh, daughter of Samarendra Kumar Singh, resident of
Mohalla- ware-house Gudari Bazar main road, P.S. Bhagwanbazar, Chapra,
District- Saran.

.... Opposite Parties

With

Criminal Miscellaneous No. 5351 of 2016

Arising Out of PS.Case No. -39 Year- 2014 Thana -MAHILA P.S. District- SARAN

- =====
1. Dilip Kumar Singh, Son of Late Y.K. Singh



2. Rekha Singh @ Rekha Devi, Wife of Dilip Kumar Singh

Both resident of Sarvamangal E/256 A- Block, Khuntadih Sonari (East), Police Station- Sonari Jamshedpur, District- East Singhbhum, Jharkhand.

... Petitioners

Versus

1. The State of Bihar

2. Nutan Kumari Singh, daughter of Samrendra Kumar Singh, Residing at Mohalla- Ware-house Gudari Bazar Main Road, Police Station- Bhagwan Bazar, Chapra, District- Saran.

.... Opposite Parties

With

Criminal Miscellaneous No. 19271 of 2016

Arising Out of PS.Case No. -39 Year- 2014 Thana -MAHILA P.S. District- SARAN

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Prashant Kumar Singh @ Sonu, Son of Dilip Kumar Singh, Resident of Sarvamangal E/256, A-Block Khuntadih, Sonari (East), Police Station-Sonari Jamshedpur, District-Singhbhum, Jharkhand.

.... Petitioner

Versus

1. The State of Bihar

2. Nutan Kumari Singh, daughter of Samrendra Kumar Singh, residing at Mohalla- Ware-house Gudari Bazar Main Road, Police Station-Bhagwan Bazar, Chapra, District-Saran.

.... Opposite Parties

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Appearance :

(In Cr.Misc. No.40900 of 2015)

For the Petitioner/s : Mr. Bindhyachal Singh, Advocate
Mr. Nanda Kishore Singh, Advocate

For the State : Mr. Ram Naresh Rai, APP

For the Informant : Mr. Bishwajeet Pandey, Advocate

(In Cr.Misc. No.41104 of 2015)

For the Petitioner/s : Mr. Bindhyachal Singh, Advocate
Mr. Nanda Kishore Singh, Advocate

For the State : Mr. Ram Sumiran Rai, APP



For the Informant : Mr. Bishwajeet Pandey, Advocate
Mr. K.K. Mishra, Advocate

(In Cr.Misc. No.5351 of 2016)

For the Petitioner/s : Mr. Satya Prakash, Advocate

For the State : Mr. B.N. Pandey, APP

For the Informant Mr. Kumar Rakesh Chandra, Advocate
Mr. Vibhakar Kumar, Advocate

(In Cr.Misc. No.19271 of 2016)

For the Petitioner/s : Mr. Satya Prakash, Advocate

For the State : Mr. Jharkhandi Upadhyay, APP

For the Informant : Mr. Vibhakar Kumar, Advocate
Mr. Kumar Rakesh Chandra, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 31-07-2018

Heard Mr. Bindhaychal Singh, learned Advocate for the petitioners, Mr. Ram Naresh Rai, Mr. Ram Sumiran Rai, Mr. B.N. Pandey and Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutors for the State, Mr. Bishwajeet Pandey and Mr. Vibhakar Kumar, learned counsel for the informant.

2. Since the petitioners by way of their respective applications filed under Section 482 of the Criminal Procedure Code (for short 'Cr.P.C.') challenged the common order dated 05.06.2015 passed by the learned Chief Judicial Magistrate, Chapra, Saran in Mahila P.S Case No. 39 of 2014, corresponding to G.R. Case No. 3069 of 2014, Tr. No. 2933 of 2015 whereby and



whereunder cognizance of the offences under Sections 341, 323, 504, and 498A of the Indian Penal Code (for short 'IPC') as well as Sections 3 and 4 of the Dowry Prohibition Act has been taken, the applications have been heard together and are being disposed of by a common order.

3. The first information report was lodged on the basis of a written application of the informant Nutan Kumari Singh who alleged inter alia that she was married to Prasant Kumar Singh on 28.11.2012, who was working in Royal Bank of Scotland, Gurgaon, Delhi and, at the time of marriage, a car, Rs.15,00,000/- in cash and ornaments worth Rs. 7,00,000/- and furniture, etc. were gifted to him on the occasion of marriage. However, after marriage, her husband and his relatives, who are named in the first information report, mounted pressure upon her to demand Rs.25,00,000/- more from her father. On failure to do so, they threatened that she will not be allowed to live in the marital house. As her father got information regarding such demand, he came at her marital house and tried to pacify the matter, but the accused persons did not agree and they continued with their demand of dowry. Ultimately, she was assaulted and ousted from her in-laws house whereafter she reached to her parental house at Chapra. On 29.06.2014, all the accused persons came at her parental house and again demanded



Rs. 25,00,000/- and when her father expressed his inability to fulfil the demand, the accused persons again assaulted her. On hulla, Sanjay Kumar Singh, Prabhat Kumar Singh, Raman Kumar Mishra, Dev Bahadur Ram and others arrived there. They intervened and tried to know the reason for discord, but they were also threatened and abused. Subsequently, she was taken to hospital by her family members.

4. On the basis of the aforestated written report of the informant, Mahila P.S. Case No.39 of 2014 was registered against Prashant Kumar Singh @ Sonu (husband), Dilip Kumar Singh (father-in-law), Rekha Singh (mother-in-law), Priyanka Singh (Nanad), Sujit Kumar Singh (Nandoi) and Monika Singh (Nanad) under Sections 341, 323, 504 and 498-A of the IPC and Sections 3 and 4 of the Dowry Prohibition Act and investigation was taken up.

5. On completion of investigation, chargesheet was submitted against the accused persons in the court.

6. After taking into consideration, the FIR, statements of witnesses recorded during investigation and substance of accusation recorded in the respective chargesheet vide impugned order dated 05.06.2015, the learned Magistrate took cognizance of the offences which is under challenge in these applications.



7. As stated above, the petitioner in Cr. Misc. No.40900 of 2015 is unmarried sister-in-law (Nanad), the petitioners in Cr. Misc. No.41104 of 2015 are married sister-in-law (Nanad) and Nandoi, the petitioners in Cr. Misc. No.5351 of 2016 are father-in-law and mother-in-law respectively and the petitioner in Cr. Misc. No.19271 of 2016 is husband of the informant.

8. Though, several defences were taken in the applications filed under Section 482 of the Cr.P.C., it has been submitted by the learned counsel for the petitioners that during pendency of the applications before this Court, an amicable settlement has been arrived at between the parties.

9. Learned counsel for the petitioners submitted that in view of an amicable settlement arrived at between the informant and her husband, the application for pre-arrest bail of the husband of the informant, namely, Prashant Kumar Singh @ Sonu was allowed by this Court. It is contended that from perusal of the order dated 01.09.2016, it would be evident that out of Rs.28,00,000/- agreed to be paid as permanent alimony to the informant, the informant had received a bank draft bearing no.098028 for Rs. 15,00,000/- in the Court and the rest amount of Rs.13,00,000/- was agreed to be paid in the proceedings of Matrimonial Suit No. 141 of 2014 filed by the husband of the informant under section 13-B of



the Hindu Marriage Act. Referring to the order dated 29.09.2016 passed in Matrimonial Suit No.141 of 2014 by the learned Principal Judge, Family Court, Saran at Chpara, it has been contended that the informant has already been paid the remaining amount of Rs.13,00,000/- on 29.09.2016 vide bank draft no.098090.

10. My attention has been drawn towards the deposition of the informant in the Matrimonial Suit in which she has categorically stated that the matter has been amicably settled, as she has already received a total amount of Rs.28,00,000/-. My attention has also been drawn towards the judgment dated 6th March, 2018 passed in Matrimonial Suit No.141 of 2015 by the learned Principal Judge whereby he has ordered for dissolution of the marriage between the informant and her husband Prashant Kumar Singh @ Sonu. It is submitted that a decree has also been drawn accordingly. It is contended that the informant has categorically stated in her different applications filed before this Court as also before the court of Principal Judge, Family Court that in view of the settlement arrived at between the parties, she is no more interested in pursuing the other cases brought out by her against her husband and his relatives.

11. Learned Additional Public Prosecutors appearing for the State in these cases fairly contended that since the offence



alleged inter alia is under Section 498A of the Indian Penal Code and the parties have already settled their differences and decided not to proceed further with the case, it would be in the interest of justice that such proceedings be terminated keeping in mind the settled view of the Supreme Court in several cases.

12. Learned counsel appearing for the informant have also supported the factum of compromise between the petitioners and the informant. They submitted that the prosecution was launched in view of matrimonial discord and incompatibility between the informant and her husband and his relatives, but as the informant and her husband finally decided to live apart and bury all their differences, no useful purpose would be served by continuing with the criminal proceedings.

13. I have heard learned counsel for the parties and carefully perused the records.

14. It would be evident from the order dated 01.09.2016 passed by this Court in Cr. Misc. No.4864 of 2016 that in view of the settlement arrived at between the parties, the petitioner Prashant Kumar Singh @ Sonu paid Rs.15,00,000/- by way of demand draft no.098028 drawn on Union Bank of India, Tinplate Branch, Jamshedpur to the informant as part of the agreed permanent alimony. It would further appear from Annexure-7



annexed to the supplementary affidavit filed on behalf of the petitioner that the factum of compromise has been accepted by the informant in her written statement filed in Matrimonial Suit No.141 of 2015. The relevant paragraphs no. 2 and 3 of the aforesaid written statement read as under:-

“2. This is for kind consideration of Court that between the petitioner and O.P. the Matrimonial Dispute has been sorted out. Both the parties have finally agreed for divorce before Hon’ble High Court, Patna in Criminal Misc. Case No.4864 of 2016 presented by petitioner in which the O.P. is O.P. No.-2. Following the condition for divorce both the parties have agreed that petitioner shall be paying Rs.28,00,000/- as full and final one time settlement to be paid by petitioner to O.P. Out of the said amount the petitioner has already given Bank Draft of Rs.15,00,000/- to O.P. as per draft No.-098028 drawn on Union Bank of India, Tinplate Branch, Jamshedpur. It is agreed further that petitioner shall be paying Rs. 13,00,000/- balance amount today by Bank Draft.

3. In light of aforementioned development the O.P does not want to continue this matrimonial suit 141/15.”

15. It would further appear from the deposition of the informant in Matrimonial Suit No.141 of 2015 annexed as



Annexure-9 to the supplementary affidavit filed on behalf of the petitioner that the Matrimonial Suit was filed due to incompatibility between the parties. As per terms of settlement, she had received the full and final payment of permanent alimony from her husband.

16. Further, from the judgment dated 06.03.2018 passed by the learned Principle Judge, Family Court, Chapra as contained in Annexure-10 to the supplementary affidavit filed in Cr. Misc. No.19271 of 2016, it would be manifest that the informant had voluntarily entered into a compromise and after receiving Rs. 28,00,000/- she had decided not to continue with the matrimonial case and had also decided that it was not possible for the parties to live together and thus the marriage was ordered to be dissolved.

17. In the instant case, cognizance has been taken of the offences under Sections 341, 323, 504 and 498A of the IPC and Sections 3 and 4 of the Dowry Prohibition Act. Out of the aforesaid penal provisions though sections 341, 323 and 504 are compoundable offences, the offence under Section 498A of the IPC and Sections 3 and 4 of the Dowry Prohibition Act are non-compoundable.

18. A three-Judge Bench of the Supreme Court lucidly explained the power conferred upon the High Court under



Section 482 of the Cr.P.C. in respect of quashing of non-compoundable cases in **Gian Singh vs. State of Punjab**. The Bench observed “.... *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.”

19. In view of the above ratio laid down by the Supreme Court, since the offence alleged arise out of matrimony relating to dowry and parties have resolved their entire dispute, it would be an abuse of the process of law to allow the prosecution to be continued. Thus, in order to secure the ends of justice, the applications are allowed. The impugned order dated 05.06.2015 passed by the learned Chief Judicial Magistrate, Saran at Chapra and the entire criminal proceedings arising out of Mahila P.S. Case No. 39 of 2014 are hereby quashed.

(Ashwani Kumar Singh, J.)

Sanjeet/SkSuman.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.08.2018
Transmission Date	08.08.2018

