

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36341 of 2015

Arising Out of PS.Case No. -45 Year- 2013 Thana -MAHILA THANA District- BEGUSARAI

1. Dr. Shekhar Kumar Jaiswal, S/o Sri Jagdish Kumar Jaiswal @ Jagdish Chaudhary, Resident of Mohalla- L.I.G. Block No.3, Quarter No.-91, Hanuman Nagar Kankarbagh, P.S.- Patrakar Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Shimpi Jaiswal, D/o Sri Bhawani Prasad Jaiswal, Resident of Village- Singhoul Pokhar, P.S.- Muffasil, District- Begusarai.

.... Opposite Party/s

with

Criminal Miscellaneous No. 36902 of 2015

Arising Out of PS.Case No. -769 Year- 2013 Thana -BEGUSARAI COMPLAINT CSAE District- BEGUSARAI

1. Dr. Shekhar Kumar Jaiswal S/o Sri Jagdish Kumar Jaiswal @ Jagdish Choudhary

2. Jagdish Kumar Jaiswal @ Jagdish Choudhary S/o Thakur Choudhary

3. Shila Jaiswal W/o Jagdish Kumar Jaiswal @ Jagdish Choudhary

4. Abhishek Kumar Jaiswal @ Kumar Abhishek S/o Jagdish Kumar Jaiswal @ Jagdish Choudhary All Resident of Mohalla - L.I.G., Block No. 3, Quarter No. 91, Hanuman Nagar Kankarbagh, P.S. - Patrakar Nagar, District Patna

.... Petitioner/s

Versus

1. The State of Bihar

2. Shimpi Jaiswal D/o Sri Bhawani Prasad Jaiswal Resident of Village - Singhoul Pokhar, P.S. - Muffasil, District - Begusarai

.... Opposite Party/s

with

Criminal Miscellaneous No. 38852 of 2017

Arising Out of PS.Case No. -62 Year- 2013 Thana -MAHILA P.S. District- PATNA

1. Dr. Shekhar Kumar Jaiswal, Son of Sri Jagdish Kumar Jaiswal @ Jagdish Choudhary,

2. Jagdish Kumar Jaiswal @ Jagdish Choudhary, Son of Thakur Choudhary,

3. Shila Jaiswal, W/o Jagdish Kumar Jaiswal @ Jagdish Choudhary.

4. Abhishek Kumar Jaiswal @ Kumar Abhishek, Son of Jagdish Kumar Jaiswal @ Jagdish Choudhary, Petitioner No. 1 to 4 are R/o Mohalla- L.I.G, Block No.-3, qr. No.- 91, Hanuman Nagar, Kankarbagh, P.S.- Patrakar Nagar, District- Patna.

5. Dinesh Prasad Jaiswal @ Dinesh Choudhary, Son of Rajo Choudhary, R/o Village- Shahpur Patori, P.S.- Shahpur Patori, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Shimpi Jaiswal, D/o Sri Bhawani Prasad Jaiswal, R/o Vill.- Singhoul Pokhar,



P.S.- Muffasil, District- Begusarai.

.... Opposite Party/s

with

Criminal Miscellaneous No. 5941 of 2018

Arising Out of PS.Case No. -404 Year- 2013 Thana -PATNA COMPLAINT CASE District- PATNA

1. Simpi Kumari @ Simpi Jaiswal, W/o Dr. Shekhar Kumar Jaiswal, D/o Bhawani Chaudhary @ Bhawani Prasad Jaiswal,
2. Bhawani Choudhary @ Bhawani Prasad Jaiswal, S/o Late Ganesh Prasad Jaiswal, Both R/o Village- Singhaul Pokhar, P.S.- Muffasil, District- Begusarai.
3. Jyoti Choudhary S/o Birendra Choudhary, R/o Village- Triveniganj, P.s.- Triveniganj, District- Supaul.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Dr. Shekhar Kumar Jaiswal, S/o Jagdish Prasad, R/o Mohalla- L.I.G. Block No.3, Quarter No.91, Hanuman Nagar, P.S.- Patrakar Nagar, District- Patna.

.... Opposite Party/s

with

Criminal Miscellaneous No. 6298 of 2018

Arising Out of PS.Case No. -261 Year- 2013 Thana -PATRAKARNAGAR District- PATNA

1. Shimpi Jaiswal, D/o Bhawani Prasad Jaiswal,
2. Bhawani Prasad Jaiswal S/o Late Ganesh Prasad Jaiswal,
3. Manju Devi W/o Bhawani Prasad Jaiswal.
4. Mukesh Kumar S/o Bhawani Prasad Jaiswal, All R/o Village- Singhaul, Pokhar, P.S.- Muffasil, District- Begusarai.
5. Jyoti Kumar S/o Birendra Choudhary, R/o Village- Triveniganj, P.O.- Triveniganj, P.S.- Triveniganj, Distt.- Supaul.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Dr. Shekhar Kumar Jaiswal S/o Sri Jagdish Kumar Jaiswal @ Jagdish Chaudhary, R/m- L.I.G. Block No.3, Quarter No.91 Hanumannagar, Kankarbagh, P.S.- Patrakar nagar, Distt.- Patna.

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.36341 of 2015)

For the Petitioner/s : Mr. Surendra Prasad Singh, Adv.

For the Opposite Party No.2 : Mr. Randhir Kumar No.1, Adv.

(In Cr.Misc. No.36902 of 2015)

For the Petitioner/s : Mr. Surendra Prasad Singh, Adv.

For the Opposite Party No.2 : Mr. Randhir Kumar No.1, Adv.

(In Cr.Misc. No.38852 of 2017)

For the Petitioner/s : Mr. Surendra Prasad Singh, Adv.

For the Opposite Party No.2 : Mr. Randhir Kumar No.1, Adv.

(In Cr.Misc. No.5941 of 2018)



For the Petitioner/s : Mr. Randhir Kumar No.1, Adv.
For the Opposite Party No.2 : Mr. Surendra Prasad Singh, Adv.
For the State : Mr. Anuj Kumar Srivastava, APP
(In Cr.Misc. No.6298 of 2018)
For the Petitioner/s : Mr. Randhir Kumar No.1, Adv.
For the Opposite Party No.2 : Mr. Surendra Prasad Singh, Adv.
For the State : Mr. Rajiv Nayan, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 19-02-2018

In Cr.Misc. No. 36341 of 2015, the petitioner has prayed for quashing the order dated 12.06.2015 passed by the learned Sub-Divisional Judicial Magistrate, Begusarai in Mahila P.S.Case No. 45 of 2013 by which he has taken cognizance against the petitioner for the offence under Section 498-A of the Indian Penal Code (for short 'IPC').

2. In Cr.Misc. No. 36902 of 2015, the petitioners have prayed for quashing the order dated 02.12.2013 passed by the Sub-Divisional Judicial Magistrate, Begusarai in Complaint Case No. 769(C) of 2013 by which he has taken cognizance of the offences punishable under Sections 498-A, 323, 504 of the IPC and Section 4 of the Dowry Prohibition Act.

3. In Cr.Misc. No. 38852 of 2017, the petitioners have prayed for quashing the order dated 12.01.2016 passed by the learned Sub-Divisional Judicial Magistrate, Patna in Mahila P.S.Case No. 62 of 2013 by which he has taken cognizance of the offences punishable under Section 498-A read with 34 of the IPC and Sections 3 and 4 of



the Dowry Prohibition Act.

4. In Cr.Misc. No. 5941 of 2018, the petitioners have prayed for quashing the order dated 12.07.2013 passed by the learned Judicial Magistrate 1st Class, Patna in Complaint Case No. 404(C) of 2013 by which cognizance has been taken for the offences punishable under Sections 323 and 379 read with 34 of the IPC.

5. In Cr.Misc. No. 6298 of 2018, the petitioners have prayed for quashing the order dated 23.07.2014 passed by the learned Judicial Magistrate 1st Class, Patna in G.R. No. 7168 of 2013 arising out of Patrakarnagar P.S. Case No. 261 of 2013 by which cognizance has been taken for the offences punishable under Sections 341, 323, 504, 506 and 379 read with 34 of the IPC.

6. Mr. Surendra Prasad Singh, learned counsel appears for the petitioners in Cr. Misc. Nos. 36341 of 2015, 36902 of 2015 and 38852 of 2017. He also represents the opposite party no.2 in Cr.Misc. Nos. 5941 of 2018 and 6298 of 2018. Mr. Randhir Kumar No.1, learned counsel appears for the petitioners in Cr.Misc. Nos. 5941 of 2018 and 6298 of 2018 and he also represents the opposite party no.2 in Cr. Misc. Nos. 36341 of 2015, 36902 of 2015 and 38852 of 2017. Mr. Anuj Kumar Srivastava, learned Additional Public Prosecutor and Mr. Rajiv Nayan, learned Additional Public Prosecutor appears for the State.



7. These five cases arise out of matrimonial discord and incompatibility between Dr. Shekher Kumar Jaiswal and Shimpi Jaiswal.

8. Learned counsel for the petitioners and learned counsel for the opposite party no.2 in these cases jointly submitted that due to intervention of the common friends and well-wishers, the parties have resolved their dispute outside the Court and have decided not to contest the cases any more. A joint compromise petition has also been filed on their behalf in Cr.Misc. No.36341 of 2015 in which it has been stated that a matrimonial case was pending between the parties in the court of Principal Judge Family Court at Patna and with mutual consent a decree of divorce has already been passed in that case.

9. Learned counsel for the parties submitted that good feelings have been restored between the parties with mutual consent and they have decided to part their ways and bring an end to all the ongoing litigations pending between them. They submitted that continuing the criminal prosecution any more before the court below would be nothing but an abuse of the process of the Court. Learned Advocates appearing for the State also submitted that since the cases arise out of matrimonial discord and incompatibility and the parties have decided to compound the offence, the State would have no objection if the Court deems it proper to quash the proceedings.



10. An identical issue had arisen before the Supreme Court in *B.S.Joshi & Ors. Vs. State of Haryana & Anr. [(2003) 4 SCC 675]*. In that case, the informant had registered a case under sections 498-A, 323 and 406 of the IPC at Central Faridabad Police Station against her husband, father-in-law, mother-in-law and brother-in-law. Subsequently, the informant filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. Her disputes with the accused persons had been finally settled and she and her husband had agreed for mutual divorce. The accused persons of the case had filed an application before the High Court seeking quashing of the FIR. The High Court had declined to quash the FIR as the offences alleged under section 498-A and 406 of the IPC were non-compoundable. Being aggrieved by the judgment of the High Court, the accused persons preferred an appeal before the Supreme Court. After hearing the parties, the Supreme Court held that the inherent power of the High Court under section 482 of the Code is wide and unfettered. It upheld the powers of the High Court under section 482 of the Code to quash the criminal proceedings where the dispute is of private nature and the compromise is entered into between the parties, who are willing to settle their differences amicably. The Court further held that the High Court ought to have quashed the criminal proceedings by accepting



the agreement arrived at between the parties.

11. Recently, the ambit and scope of the inherent powers of the High Court under section 482 of the Code in quashing of the criminal proceedings in non-compoundable offences relating to matrimonial disputes was discussed and adjudicated by a three-Judge Bench in *Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr. [(2013) 4 SCC 58]*. In that case, marriage of Jitendra Raghuvanshi and Babita Raghuvanshi was solemnized on 22.02.2002 as per Hindu rites and rituals. After the marriage, parties were residing together as husband and wife. On 05.03.2003, an F.I.R. was registered for the offences punishable under sections 498-A and 406 read with 34 of the IPC at the instance of Babita Raghuvanshi owing to the harassment and torture meted out to her in the matrimonial home by her husband and his relatives. Another criminal case was also registered against Jitendra Raghuvanshi in 2011 for the offences punishable under sections 498-A and 406 of the IPC and sections 3 and 4 of the Dowry Prohibition Act, 1961. In the year 2012, with the help and intervention of the family members, friends and well-wishers, the parties amicably settled their differences by way of mutual settlement. A compromise application was filed for dropping of the criminal proceedings in both the criminal cases instituted at the behest of Babita Raghuvanshi. The informant/complainant Babita



Raghuvanshi also filed an affidavit stating that she did not wish to pursue the criminal proceedings against the accused persons. However, the trial court rejected the said application. Being aggrieved, Jitendra Raghuvanshi filed an application before the High Court invoking its inherent powers under section 482 of the Code to quash the criminal proceedings launched against them. The High Court dismissed the application filed by the accused persons stating that the Court has no power to quash the criminal proceedings in respect of the offences under sections 498-A and 406 of the IPC since both were non-compoundable offences. Aggrieved by the order passed by the High Court, Jitendra Raghuvanshi had filed an appeal before the Supreme Court.

12. The Supreme Court examined the scope and ambit of powers of the High Court under section 482 of the Code in quashing of the criminal proceeding in non-compoundable offences relating to matrimonial disputes and held in paragraphs 15, 16 and 17 as under :-

“15. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.

16) There has been an outburst of matrimonial



disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising its extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceedings ought to be quashed. We also make it clear that exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the courts exist. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482 of the Code enables the High Court and Article 142 of the Constitution enables this Court to pass such orders.

17) In the light of the above discussion, we hold that the High Court in exercise of its inherent powers can quash the criminal proceedings or FIR or complaint in appropriate cases in order to meet the ends of justice and Section 320 of the Code does not limit or affect the powers of the High Court under Section 482 of the Code. Under these circumstances, we set aside the impugned judgment of the High Court dated 04.07.2012 passed in M.C.R.C. No. 2877 of 2012 and quash the proceedings in Criminal Case No. 4166 of 2011 pending on the file of Judicial Magistrate Class-I, Indore.”

13. Keeping in mind the ratio laid down by the Supreme Court in ***B.S. Joshi & Ors. Vs. State of Haryana & Anr.*** (Supra) and



Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr.

(Supra) and in view of the submissions made by the learned counsel for the parties, I am of the considered opinion that allowing the prosecution to continue would cause insurmountable harassment, agony and pain to the parties, who have already settled their dispute outside the Court.

14. Accordingly, the impugned orders dated 12.06.2015, 02.12.2013, 12.01.2016, 12.07.2017 and 23.07.2014 passed in Mahila P.S.Case No. 45 of 2013, Complaint Case No. 769(C) of 2013, Mahila P.S.Case No. 62 of 2013, Complaint Case No. 404(C) of 2013 and Patrakarnagar P.S.Case No. 261 of 2013 respectively and the entire criminal proceedings of the aforesaid five cases are hereby quashed.

15. These applications stand allowed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	20-02-2018
Transmission Date	20-02-2018

