

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.33722 of 2014**

Arising Out of PS. Case No.-1304 Year-2010 Thana- COMPLAINT CASE District- Supaul

Vijay Bihari Mishra S/o - Ram Bihari Mishra R/o - Vill + P.O. - Sherpur, P.S.  
- Maner, Dist - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Manju Kumari D/o - Late Damodar Pathak R/o - Ward No. - 10, near Dhatal Das Thakurbari, Station Road, P.S. & District - Supaul.

... .. Opposite Party/s

**Appearance :**

|                    |   |                               |
|--------------------|---|-------------------------------|
| For the Petitioner | : | Mr. Shubhesh Pandey, Advocate |
| For the State      | : | Md. Mushtaque Alam, APP       |
| For O.P. No.2      | : | Mr. Pankaj Kumar, Advocate    |

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR**  
**ORAL JUDGMENT**

**Date : 19-07-2018**

Heard learned counsel for the parties.

2. Learned counsel for the petitioner submits that the petitioner has filed this quashing application for setting aside the cognizance order dated 08.12.2011, passed by learned SDJM, Supaul in Complaint Case No.1304 'C' of 2010 under Sections 120(b), 498(A), 323, and 379 of the Indian Penal Code as well as under Sections 3/4 of the D.P. Act.

3. Petitioner is the husband and the matter was earlier referred to the Mediation Centre by the Court and it was settled before the Mediation Centre. The petitioner-husband had to pay Rs.11 lacs within three years and after payment of the said amount,



the complainant undertakes to withdraw the present complaint and also agreed to file petition of divorce by mutual consent before the competent court under Section 13B of the Hindu Marriage Act, 1955 pursuant to the condition, petitioner has already paid Rs.11 lacs, this fact is stated on affidavit by the petitioner with a copy of the pass-book where the transaction of the amount was done in favour of his wife.

4. Mr. Pankaj Kumar, the learned counsel appearing on behalf of the complainant also concedes that the said amount has been paid to the wife but despite giving sufficient opportunity of filing a counter affidavit the same has not been filed by the wife. However, the fact of making payment of Rs.11 lacs is accepted by the learned counsel for the complainant.

5. In view of the terms and conditions enumerated in Mediation Report dated 09.04.2015 the complainant (the wife) and the accused (husband) both have entered into compromise and agreed for dissolving the marriage by filing a divorce petition with mutual consent, as per terms of agreement the petitioner (husband) has paid Rs.11 lacs to his wife, the complainant, so continuation of the present criminal proceeding against the petitioner in view of ratio laid down in case of Gian Singh vs. The State of Punjab, (2012) 10 SCC 303, it would not be fair in interest of justice to



continue with the present criminal proceeding rather contrary to the interest of justice hence continuation of the criminal proceeding would be abuse of the process of the Court, so the impugned order taking cognizance dated 08.12.2011, passed by learned SDJM, Supaul in Complaint Case No.1304 'C' of 2010 and subsequent criminal proceeding in the matter against the petitioner is hereby quashed.

6. The application stands allowed.

**(Arun Kumar, J)**

S.KUMAR/-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
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