

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20118 of 2016

Arising out of Complaint Case No.-2619(C) Year-2015 Thana- PATNA COMPLAINT CASE
District- Patna

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1. Vikash Kumar Giri, Son of Nityanand Giri
 2. Nityanand Giri, Son of Kailashpati Giri
 3. Urmila Devi @ Urmila Giri, Wife of Nityanand Giri
 4. Neeraj Kumar Giri, Son of Nityanand Giri
 5. Kamini @ Sobi, Wife of Manish Giri, daughter of Nityanand Giri
All resident of Rajeev Nagar, Ward No. 14, P.S. & District - Gopalganj
 6. Manish Giri, Son of Dr. Sudama Giri, R/o village - Tamkuhi, P.S. Tamkuhi, District - Kushinagar (U.P.)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Seema Kumari, D/o Raju Giri, Wife of Vikash Kumar Giri, r/o Giri Tola, Hajiyapur, Ward No. 26, Gopalganj, P.S. Gopalganj, District - Gopalganj, Presently residing at Digha Ghat Road, Chauhatta, P.S. Digha, District - Patna

... .. Opposite Party/s

with

Criminal Miscellaneous No. 52877 of 2016

Arising out of PS. Case No.-43 Year-2016 Thana- MAHILA P.S. District- Gopalganj

-
1. Vikash Kumar Giri, son of Nityanand Giri
 2. Nityanand Giri, son of Kailashpatti Giri
 3. Urmila Giri, wife of Nityanand Giri
 4. Neeraj Kumar Giri, son of Nityanand Giri, All residents of Rajeev Nagar, Ward No. 14, P.S. & District - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Seema Kumari d/o - Raju Giri, wife of Vikash Kumar Giri, r/o Giri Tola, Hajiyapur, Ward No. 26, Gopalganj, P.S. Gopalganj, District Gopalganj, presently residing at Digha Ghat Road, Chauhatta, P.S. Digha, District - Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jagmnath Singh, Advocate
Pushkar Kumar Ray, Advocate

For the Opposite Party/s :

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT



Date : 20-06-2018

Both these applications by the applicants have been filed for quashing the proceedings initiated against them by Respondent No. 2 wife of Sri Vikash Kumar Giri Petitioner No. 1. Petitioner No. 2 Nityanand Giri and Petitioner No. 3 Urmila Giri are the parents of Petitioner No. 1 Vikash Kumar Giri and Petitioner No. 3 Niraj Kumar Giri is son of Sri Nityanand Giri.

Inter alia contending that the proceedings initiated under Sections 498A, 406 and 494, 313/34 of the Indian Penal Code are unsustainable, these applications have been filed for quashing the proceedings under Section 481 Cr.P.C.

During the pendency of the matter, parties have settled the dispute amicably between them and in Matrimonial Case No. 37 of 2015, pending in the court of Principal Judge, Family Court, Gopalganj the issue has been settled in terms of the compromise entered into between the parties vide Annexure-9 and 9/1 to the supplementary affidavit filed in Cr. Misc. No. 20118 of 2016. It has been agreed by the parties that the marriage be dissolved amicably and as a one time settlement towards permanent alimony a sum of Rs. 3,50,000/- shall be paid which has been deposited by the applicants in the court of Principal Judge, Family Court, Gopalganj.



I have gone through the settlement between the parties and the question is as to whether now the application for quashing the proceedings on the basis of the compromise can be permitted or not in view of the fact that the offence under Section 498A I.P.C. is non-compoundable in view of the provisions of Section 320 Cr.P.C.

The issue has been considered by the Supreme Court in the case of **B.S. Joshi & Ors. Vs. State of Haryana & Anr. 2003(3) Supreme 227** and in Paragraphs 13,14,15 and 16 the powers to be exercised by the High Court under Section 482 Cr.P.C. in such matters have been crystallized.

Taking note of the aforesaid and the agreement entered into between the parties, I see no reason to exercise the jurisdiction in this case as the compromise entered into between the parties is in the interest of all concerned and is a resolution of all the matrimonial disputes between the parties.

Keeping in view the aforesaid, these applications are allowed. Complaint Case No. 2619(C)/2015 pending in the court of Mrs. Shema Eram, Judicial Magistrate, 1st Class, Patna and Gopalganj Mahila P.S. Case No. 43/2016, G.R. No. 3351/2016 are quashed. The applications are disposed of in terms of the compromise entered into between the parties and on



the respondent wife producing a certified copy of this order, the learned Principal Judge, Family Court, Gopalganj shall release to her the amount of Rs. 3,50,000/- deposited in the court forthwith. In case the amount has been deposited by cheque or Demand Draft, as the case may be, the court shall obtain a fresh cheque/Demand Draft from the applicant and ensure payment of the amount within 15 days of production of a certified copy of this order.

With the aforesaid, both the applications stand allowed and disposed of.

(Rajendra Menon, CJ)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	26-06-2018
Transmission Date	26-06-2018

