

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34644 of 2015

Arising Out of PS.Case No. -251 Year- 2014 Thana -BETTIAH TOWN District-
WESTCHAMPARAN(BETTIAH)

- =====
1. M. Mushtaque Ahmad son of M. Salimullah
 2. Noor Afsan Ahmad alias Noor Afshan Kirmani wife of M. Mustaque Ahmad
Both residents of Daroosalam Manjil Compound, 4/1688, Dotpur, Aligarh, P.S.
Civil Line, District Aligarh (U.P.).

.... Petitioner

Versus

1. The State of Bihar.
2. Dr. M. Nasim Alam son of Late Abdul Hakim Resident of Mahabat Toli, P.S.
Bettiah Town, District - West Champaran.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Avanish Kumar Singh, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP
For Opposite Party No. 2 : Mr. Amarendra Nath Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 08-05-2018

This application under Section 482 of the Code of Criminal Procedure (for short 'CrPC') has been filed by the petitioners for quashing the order dated 01.05.2015 passed by the learned Chief Judicial Magistrate, Bettiah, West Champaran in Bettiah (T) P. S. Case No. 251 of 2014, arising out of Complaint Case No. 866 C of 2014 whereby the petitioners and another have been summoned to face trial for the offences punishable under Sections 498-A, 406, 323, 341 and 504 of the Indian Penal Code and 3 and 4 of the Dowry Prohibition Act.



2. Initially, Complaint Case No. 866 C of 2014 was filed by the opposite party no. 2 in the Court of Chief Judicial Magistrate, Bettiah, West Champaran on 16.05.2014. After perusing the complaint, the learned Chief Judicial Magistrate in exercise of powers conferred under Section 156(3) of the CrPC referred the complaint to the police for investigation whereafter Bettiah (T) P. S. Case No. 251 of 2014 was registered under Sections 498-A, 406, 323, 341 and 504 of the Indian Penal Code and 3 and 4 of the Dowry Prohibition Act.

3. The prosecution case, according to the informant, in brief, is that his daughter Tasneema Shahida was married to Md. Saif Ahmad, son of the petitioners on 14.12.2012. At the time of marriage, gifts of about Rs.15 lacs were given to her. After marriage, she went to her *sasural* at Aligarh, but the behaviour of her husband and parents-in-law was not good with her. On 25.03.2013, the accused Md. Saif Ahmad went to Australia for his livelihood where he studied and, thereafter, on 28.04.2013, the informant's daughter also went to Australia. The son of the informant was also living at Australia during the relevant period. Subsequently, he went to Abu Dhabi and handed over his house to his sister and brother-in-law Md. Saif Ahmad for living therein. He also handed over his Toyota Car to them. Thereafter, Md. Saif Ahmad started torturing his wife for



bringing more money from her brothers, who all are well of, but since she did not agree to make demand from them, she was beaten and abused. When her brother came to know about the demand being made by her husband Md. Saif Ahmad, he sent Rs.2 lacs to him. Thereafter, also demand continued and due to non-fulfilment of demand, Md. Saif Ahmad threatened his wife for divorce. It has also been alleged that the petitioners also instigated their son to make demand of Rs.15 lacs from the daughter of the informant.

4. On completion of investigation, the police submitted charge-sheet in the Court of Chief Judicial Magistrate, Bettiah, who vide impugned order dated 01.05.2015 took cognizance of the offences and summoned the petitioners and another to face trial.

5. Learned counsel for the petitioners submitted that daughter-in-law of the petitioners filed an application before the court of Principal Judge, Family Court, West Champaran, Bettiah under Section 2 of Dissolution of Marriage Act, 1969 for declaring the marriage between the parties dissolved, which was registered as Title Suit No. 29 of 2017 and vide order dated 14.06.2017, the learned Principal Judge Family Court has declared the matrimonial relationship between the parties as dissolved. He submitted that during the pendency of the instant application before this Court, the parties have amicably settled their dispute outside the Court and have



decided to bring to an end all the litigations between them in terms of compromise. He has also drawn my attention towards a joint application filed before this Court vide IA No. 1452 of 2018 in the present matter for quashing the prosecution in the light of compromise arrived at between the petitioners and the private opposite party no. 2.

6. Learned counsel appearing for opposite party no. 2 also admitted that the entire disputes between the parties have been resolved amicably with the intervention of common relatives and family friends. He submitted that neither the informant nor his daughter intend to proceed ahead with the prosecution of the accused persons in the instant case in view of the compromise arrived at between them.

7. I have heard learned counsel for the parties and perused the record.

8. The relevant part of the compromise petition is extracted hereunder :-

“ 1. That the present application is being filed for disposing of the present matter in terms of a compromise entered between the parties outside the court and already given effect to with mutual consent of the parties and all the litigation between the parties in terms of a memorandum of compromise being filed before



this Hon'ble Court for record and for the needful.

2. That on the intervention of well-wishers and common-friends, the petitioners and the opposite parties have compromised the dispute underlying the present matter on the following covenants:-

- (i) The *ex parte* divorce-decree dated 14.06.2017 passed by the learned Family Court, Bettiah nullifying the marriage dated 14.12.2012 has been accepted by the lady Tasneema Shaheda and the man Mohd. Saif Ahmad and both would be hereinafter free to remarry or have their own lives otherwise without any obstacle or claim by the other side whatsoever with respect to the said marriage.
- (ii) The parties have already exchanged their belongings lying with the other side given before, at the time of or after their marriage dated 14.12.2012 and there remains no claim whatsoever on either side with respect to any article.
- (iii) The petitioners and their son Mohd. Saif Ahmad have already paid a sum of rupees twenty lacs to the



opposite party and his daughter Tasneem Shaheda by way of one time settlement with respect to the cost of performance of marriage, alimony and one lump sum satisfaction of the lady's claim to maintenance decreed ex parte, so on and so forth. Now the parties have no any claim against the other side of any nature whatsoever and all their claims stand satisfied and they relinquish all those even not raised anywhere. Thus, both the parties would have no rights against the order and undertake not to raise any claim nor litigate any more even in future.

- (iv) Out of the matrimonial dispute between Tasneem Shaheda, daughter of Dr. Naseem Alam and Mohammad Saif Ahmad son of M. Mushtaque Ahmed several civil and criminal cases and proceedings have been instituted by and between the parties which have all been decided to be set at naught. Thus, the two criminal cases by the lady's father (O.P.No. 2) first being an FIR No. 251/14 U/S 498A IPC



and second being Complaint Case 885C/16 U/S 384, 379 & other offences of the IPC, two civil cases filed by the lady herself before the Principal Judge, Family Court, Bettiah the first being (third in all) being an *ex parte* decreed maintenance case No. 236 M of 2014 U/S 125 Cr.P.C. and the second being the marriage dissolution case bearing Title Sit No. 1 of 2017; and all other matters pending anywhere between the parties have been decided to be withdrawn and/or consigned by mutual consent on the basis of the compromise.

3. That the terms and conditions of the compromise have been read over, fully understood and signed in agreement by both the parties and their counsels in the present matter before this Hon'ble Court by way of swearing personal affidavits annexed herewith.

4. That in the facts and circumstances stated above, the present application deserves to be allowed and the main quashing application deserves to be disposed of in terms of the said compromise by this Hon'ble Court.

5. That opposite party as well as the



petitioners would suffer irreparable loss & injury, if the present application is not allowed and the matter is not disposed of by this Hon'ble Court.

6. That the petitioners as well as the opposite party undertake to abide by the terms & conditions of the above-said compromise and further undertake to abide by the conditions, if any, imposed by the Hon'ble Court for granting this application."

9. Having heard learned counsel for the parties and perused the duly affidavited compromise petition, this Court is of the view that the parties have settled the dispute amicably and without any pressure. Since the prosecution relates to matrimonial dispute and the parties have decided to part ways and terminate their disputes, this Court is also of the view that it would be in their interest to quash the entire criminal prosecution instead of compelling them to fight it out in court of law. It is also a duty cast upon the court to make efforts in the interest of the individuals in order to enable them to settle down in life and live peacefully.

10. Thus, keeping in mind the ratio laid down by the Supreme Court in **Jitendra Raghuvanshi & Ors. Vs. Babita Raghuvanshi & Anr. [(2013) 4 SCC 58]** and **Gian Singh Vs. State of Punjab [(2012) 10 SCC 303]** wherein it has been held that even if



the offences are non-compoundable, if they relate to matrimonial dispute and the parties have settled the same amicably without any pressure, the court in exercise of power under Section 482 of the CrPC may quash the criminal prosecution. Since daughter of the informant and son of the petitioners have decided to part and a decree of divorce has already been passed and all other disputes have amicably been settled between the parties and an affidavit in this regard has also been filed before this Court, in the opinion of this Court, no useful purpose would be served by asking the parties to contest before the court. Consequently, the impugned order dated 01.05.2015 passed by the learned Chief Judicial Magistrate, Bettiah, West Champaran in Bettiah (T) P. S. Case No. 251 of 2014 and the entire criminal proceedings arising out of said case are hereby quashed.

11. Accordingly, the application stands allowed.

(Ashwani Kumar Singh, J.)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.05.2018
Transmission Date	14.05.2018

