

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7775 of 2015

Arising Out of PS. Case No.-93 Year-2014 Thana- SAHARSA District- Saharsa

Md. Abu Baker Son of Md. Jalil, Resident of Village - Patarghat Kothi, P.s. - Sour Bazar, District - Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Kamarjahan D/o Late Abul Kalam, Wife of Md. Abbu Bakar, Resident of Village - Patarghat Kothi, P.s. - Sour Bazar, District - Saharsa, at present resident of ward no. 22, Nagar Parishad, Saharsa, P.S. District - Saharsa.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Amrit Abhijat, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 22-04-2019

Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner has moved the Court under Section 482
of the Code of Criminal Procedure, 1973 for the following relief:

“ That this is an application for quashing and setting aside order dated 06.05.2014 passed by learned Chief Judicial Magistrate, Saharsa in Saharsa Sadar P.S. Case No. 93 of 2014 taking cognizance of an offence under Sections 341/323/498A/494/504/506 of the Indian Penal Code, pending in the Court of learned S.D.J.M., Saharsa ”

3. The allegation against the petitioner, who is the husband of the opposite party no. 2, is of demand of dowry, assault, torture and also of threatening.



4. Learned counsel for the petitioner submitted that without going into the merits, while seeking bail in another case by the opposite party no. 2, i.e., Saharsa Mahila P.S. Case No. 55 of 2012, this Court by order dated 05.09.2014 in Cr. Misc. No. 26451 of 2014 had recorded that the opposite party no. 2 was agreeable to payment of Rs. 1,50,000/- as a one-time-settlement and upon the same being paid, the petitioner was directed to be released. Learned counsel drew the attention of the Court to order dated 15.09.2014 passed by the Court below, copy of which has been brought on record, which indicates that the petitioner was released after paying through Demand Draft of Rs. 1,50,000/- to the opposite party no. 2. It was submitted that in the present case also, taking note of such fact, bail was granted by this Court in Criminal Miscellaneous No. 26750 of 2014 by order dated 05.09.2014. Learned counsel submitted that as offence under Section 498A of the Indian Penal Code is non-compoundable, this Court is required to interfere in the same, as has been held by the Hon'ble Supreme court in **Gian Singh v. State of Punjab** reported as **(2012) 10 SCC 303**, the relevant being at paragraphs no. 58 and 61. It was submitted that the same has also been followed by the Hon'ble Supreme Court in its judgment in **State of Maharashtra Thr. CBI**



vs Vikram Anantrai Doshi reported as **2014(10) Scale 690**, the relevant being at paragraph no. 17.

5. Learned APP submitted that in view of the earlier order of the Court and the petitioner paying Rs. 1,50,000/- to the opposite party no. 2, which is recorded in the order of the Court below dated 15.09.2014, the Court may put an end to the criminal prosecution.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties and taking into consideration that as was accepted by the opposite party no. 2 for one-time-settlement payment of Rs. 1,50,000/- which has been given to her, for securing the ends of justice, the criminal prosecution has to come to an end.

7. Accordingly, the application is allowed. The entire criminal prosecution arising out of Saharsa Sadar P.S. Case No. 93 of 2014, pending before the Court below at Saharsa, including order taking cognizance dated 06.05.2014, as far as it relates to the petitioner, stands quashed.

(Ahsanuddin Amanullah, J)

Anjani/-

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