

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13415 of 2015

Arising Out of PS. Case No.-96 Year-2007 Thana- KANKARBAG District- Patna

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1. Rama Kishore Singh @ Rama Singh S/o Shri Kapileshwar Singh resident of village- Kumharkol Bujurg, P.s.- Desri, Dist-Vaishali.
 2. Shiv Shankar Sah S/o Ram Chandra Sah resident of Village- Sahdei Bujurg, P.S- Desri, District- Vaishali.
 3. Ran Vijay Singh S/o Pd. Singh resident of Andar Qila P.S- Hajipur, Dist- Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Jai Govind Prasad S/o Late Kali Prasad resident of Chiraiyan Tand, Devi Asthan, East Gali, P.s- Kankarbagh, Dist- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anjani Kumar Sinha

For the Opposite Party/s : Mr.Smt. Anita Kumariapp

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 18-06-2019

The present petition has been filed for quashing the order dated 7.11.2013 passed by the Additional Session Judge XI, Patna in Kankarbagh P.S. Case No. 96 of 2007 (GR No. 2621 of 2007, Session Trial No. 762 of 2011) whereby and whereunder the learned trial court has framed charges against the petitioners herein for the offences punishable under Sections 341 and 325 of the Indian Penal Code.

2. The brief facts of the case are that two F.I.Rs are stated to have been lodged, one by the petitioners and the other by the opposite party no. 2, pertaining to an accident which had taken



place between the vehicles of the said persons. The additional allegations said to have been made in the F.I.R. filed by the opposite party no. 2 was with regard to the accused persons having assaulted the opposite party no. 2 with rods, danda etc. resulting in the opposite party no. 2 i.e. the informant of the F.I.R. in question receiving injury on his right leg and consequently, the right leg of the informant was fractured.

3. The learned Senior Counsel for the petitioners submits that the petitioners had moved the learned trial court for discharge whereupon the matters pertaining to framing of charge as also the discharge petition, filed by the petitioners, were taken up for hearing simultaneously and the learned Additional Sessions Judge XI, Patna has been pleased to pass the impugned order dated 7.11.2013 whereby and whereunder although the charges levelled against the petitioners under Section 307 of the Indian Penal Code has been dropped, however, the learned trial court has refused to discharge the petitioners herein and accordingly has taken cognizance for the offences punishable under Sections 341 and 325 of the Indian Penal Code.

4. The learned Senior Counsel for the petitioners submits that the petitioners and the opposite party no. 2 i.e. the informant of Kankarbagh P.S. Case No. 96 of 2007 have already



entered into a compromise as is apparent from the order dated 10.11.2014 passed by the Chief Judicial Magistrate, Patna in the aforesaid case wherein it has been clearly recorded that a compromise petition has been filed by the petitioners herein. A certified copy of the said compromise petition dated 10.11.2014 has been filed along with the present petition wherein the opposite party no. 2 has also made his signature on the said compromise petition.

5. The learned counsel appearing for the opposite party no. 2 has accepted that a compromise has already taken place in between the petitioners and the opposite party no. 2 and both the parties have undertaken not to proceed further with their respective criminal cases.

6. At this juncture, the learned Senior Counsel for the petitioners has relied upon a judgment rendered by the Hon'ble Apex Court, reported in *AIR 2012 SC 499 (Shiji & Ors. vs. Radhika & Ors.)* to contend that simply because an offence is not compoundable under Section 320 of the Criminal Procedure Code, 1973, the same is by itself no reason for the High Court to refuse exercise of its power under Section 482 Cr.P.C. and the High Court is well within its power to exercise its power under Section 482 Cr.P.C. in such cases where there is no chance of



recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility.

7. I have heard the learned Senior Counsel for the petitioners and the learned counsel appearing for the opposite party no. 2, who are in agreement that the case in hand has been settled and a compromise has been arrived at between the parties, whereby both the parties have agreed and undertaken not to proceed with the respective criminal cases filed by them, hence, I am of the opinion that no fruitful purpose would be served by permitting the criminal proceedings to continue inasmuch as there is no chance of recording of conviction as against the petitioners herein since there is no likelihood of any witness turning up on behalf of the prosecution and the entire exercise pertaining to the trial in question would be in futility and would further amount to overburdening the Courts which are already overburdened as well as would result in wasteful litigation.

8. Having considered the facts and circumstances of the case, as also the submissions made by the learned counsel for the parties and having regard to the aforesaid judgment rendered by the Hon'ble Apex Court in the case of *Shiji & Ors.* (supra), I deem it fit and proper to quash the order dated 7.11.2013 passed



by the learned Additional Session Judge XI, Patna in Kankarbagh P.S. Case No. 96 of 2007 (GR No. 2621 of 2007, Session Trial No. 762 of 2011), as also the entire criminal proceedings arising out of Kankarbagh P.S. Case No. 96 of 2007.

9. The petition stands allowed to the aforesaid extent.

10. At this juncture, the learned counsel for the opposite party no. 2 submits that the case filed by the petitioners herein i.e. Kankarbagh P.S. Case No. 95 of 2007 is also required to be quashed in pursuance to a compromise reached at between the petitioners and the opposite party no. 2.

11. The learned Senior Counsel for the petitioners, upon instructions from the petitioners, submits that the petitioners have no objection in case, Kankarbagh P.S. Case No. 95 of 2007, filed by the petitioners herein is quashed, however, this Court is unable to quash the aforesaid Kankarbagh P.S. Case No. 95 of 2007, since the same is not before this Court, however, in view of the fact that criminal case bearing Kankarbagh P.S. Case No. 96 of 2007, filed by the opposite party no. 2, has been quashed in pursuance to a compromise reached at between the petitioners and the opposite party no. 2, according to which both the parties have agreed not to pursue



their respective criminal cases, I deem it fit and proper to grant liberty to the opposite party no. 2 to file appropriate petition for quashing of the aforesaid Kankarbagh P.S. Case No. 95 of 2007.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.08.2019
Transmission Date	30.08.2019

