

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.376 of 2018

Arising Out of PS. Case No.-386 Year-2012 Thana- NAWADA District- Nawada

- =====
1. Jitendra Kumar Sinha son of Yamuna Prasad Sinha
 2. Yamuna Prasad Sinha @ Jamuna Prasad Son of Late Brahmdeo Prasad
 3. Sumitra Devi W/o- Yamuna Prasad Sinha
 4. Prabhu Kumar Sinha Son of Yamuna Prasad Sinha
 5. Gafur Kumar Sinha @ Sanjeet Kumar Sinha, Son of Yamuna Prasad Sinha.

All resident of village- Panchwara, P.S.- Warisaliganj, District- Nawada.

... .. Petitioner/s

Versus

1. State Of Bihar
 2. Chanchala Devi W/o- Jitendra Kumar Sinha
- D/o- Chhotelal Prasad, R/o- village- Goithadih, P.S.- Nawada (Kadirganj O.P.), District- Nawada.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Deepak Kumar
For the Opposite Party/s	:	Mr. Sri Surendra Kumar

=====

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
CAV JUDGMENT

Date : 14-08-2019

Heard learned counsel for the parties.

Petitioners, by means of this application under section 482 of the Code of Criminal Procedure, has invoked the inherent jurisdiction of this Court with a prayer to quash the order dated 31.05.2017, passed by the learned Judicial Magistrate-1st Class, Nawada in Nawada P.S. Case No. 386 of 2012, whereby cognizance under section 498A/34 of the Indian Penal Code has been taken against the petitioners.

The brief facts of the case in nutshell is that the



complainant filed a complaint petition, inter alia, stating that her marriage was solemnized with petitioner No.1, Jitendra Kumar Sinha on 01.03.2001 as per the Hindu rites and rituals at Nawada, thereafter she started living at her matrimonial home along with other family members. Further, it is stated that her husband used to live in Delhi for his livelihood and he used to come home occasionally. She further stated in her complaint that she gave birth of female child and soon thereafter the family members of the complainant started torturing her but somehow she was living peacefully at the instance of Panchayati. After lapse of one month of Panchayati, dowry of Rs. 50000/- was demanded by the accused persons and upon refusal of the same, she was subjected to assault and she was ousted from her matrimonial home after committing theft of her all belonging which was worth of Rs. 50000/-. Although the matter was informed to the police but the case could not be registered against the accused persons and being left with no option, the complainant proceeded to file the present complaint case before the learned Chief Judicial Magistrate, Nawada and the same has been registered as Nawada (Town) P.S. Case No. 386 of 2012 at the instance of the Court.



The contention of the learned counsel for the petitioners is that the matter has been compromised between the parties, which is evident from Annexure-2, and as such prays for quashing of the entire proceedings as well as the order taking cognizance.

From perusal of the materials available on record and the submissions made above, it is evident that notices have been issued to the O.P. No.2 but she has chosen not to appear in this case as yet, service report of notice is at Flag-A, and the matter has been compromised between the parties and they are living together happily.

The Hon'ble Supreme Court in the case of ***Gian Singh Versus State of U.P.*** reported in ***(2012) 10 Supreme Court Cases 303*** has laid down the law that criminal proceedings may be quashed even in non-compoundable cases by the High Court in exercise of its extraordinary jurisdiction to restore peace between the parties and in case the justice so demands. According to the Hon'ble Supreme Court, if the offence involve private dispute between the parties of commercial nature or matrimonial dispute and it is not related to a heinous offence, the proceedings may be quashed.



In view of the above, the present application is allowed and the entire proceeding including the order taking cognizance dated 31.05.2017 passed by the learned Judicial Magistrate-1st Class, Nawada in Nawada P.S. Case No. 386 of 2012, is, hereby, quashed.

The application accordingly stands allowed.

(Arvind Srivastava, J)

Brajesh/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

