

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49612 of 2014

Arising Out of PS. Case No.-38 Year-2014 Thana- MAHILA P.S. District- Bhojpur

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1. Md. Farukh Azam Son of Md. Ishlam
 2. Md. Ishalm Son of Late Md. Abdul Sakur
 3. Md. Aasif Ali @ Aasif Azam Son of Md. Ishlam
 4. Tabassum Khatoon Rosy Wife of Md. Aasif Ali
 5. Akbari Khatoon Wife of Md. Ishlam
- all are Resident of Mohalla - Pathar Mashjid Road, Patna-6, P.S.- Sultanganj,
District - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Nazni Parween D/o Md. Sohrab
resident of Mohalla- Nawada, Ara, P.S.-Ara, Nawada, District- Bhojpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Md. Najmul Hoda with Mr. Anamul Haque, Advocates
For the State	:	Mrs. Indu Kumari Srivastava, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 29-03-2019

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. Pursuant to order dated 12.03.2019, the opposite party
no. 2 is present in Court along with a lady police officer. Her father
is also present. The petitioner no. 1 is also present.

3. The petitioners have moved the Court under Section
482 of the Code of Criminal Procedure, 1973 for the following
relief:



“That this is an application for quashing the order dated 22.07.2014 passed by S.D.J.M., Ara in Mahila P.S. case no. 38 of 2014, in which he has taken cognizance against the petitioners for the offence under Sections 498(A)/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.”

4. The worst fears of the Court have been found to be true, inasmuch as, the Court had suspected that the *khula* which the opposite party no. 2 is said to have taken on 27.02.2013 did not appear to be *bona fide* and in fact under duress. Before the Court today, the opposite party no. 2 has stated that she was tortured in the matrimonial home and also beaten up and on many blank papers, her signature was obtained forcibly and even with regard to the *khula*, she has stated that under coercion and force she was made to sign on the document. On a query of the Court, as to whether she would be agreeable to go back to the matrimonial home, she submitted that the doors are shut for the reason that the petitioner no. 1 is in illicit relationship with the wife of his brother.

5. At this juncture, the Court put a query to the father of opposite party no. 2 that in view of his daughter not willing to go back to the husband, what was their stand. Both the father and the daughter agreed for one-time-settlement.

6. In view of the position emerging, the Court put a query to learned counsel for the petitioners with regard to what was their proposal; learned counsel for the petitioners, upon taking



instructions from the petitioner no. 1, submitted that he is willing to pay Rs. 2,50,000/- for which he sought one year time. When the Court made it clear that one year time is unreasonable and could not be allowed, learned counsel, after seeking instructions from the petitioner no. 1, submitted that by 31st December 2019, the amount of Rs. 2,50,000/- shall be paid to the opposite party no. 2.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the present case relating to matrimonial discord requires to be finally settled and both the parties should now peacefully lead their own separate lives without interference from the other side.

8. Accordingly, the application is disposed off in the following terms.

9. The entire criminal proceeding arising out of Mahila P.S. Case No. 38 of 2014, including the order dated 22.07.2014 passed by the S.D.J.M., Ara, stands quashed.

10. However, the said order shall be subject to payment of Rs. 2,50,000/- to the opposite party no. 2 by the petitioner no. 1 latest by 31st December, 2019. In the event, such payment is not made, the present order shall stand withdrawn and the present application shall be deemed to have been dismissed. The money



shall be deposited by the petitioners in the bank account of the opposite party no. 2.

11. Further, the opposite party no. 2 shall be at liberty to file an application before this Court for appropriate orders if the petitioners, especially petitioner no. 1, does not comply with the assurance given before this Court today.

12. Ms. Meena Kumari, the Sub Inspector of Police, who is posted in Nawada Police Station in the town of Ara and who has brought the opposite party no. 2 is directed to ensure that she is taken back to her home from where she has brought safely.

13. In the meantime, if there is any incident or occurrence between the parties, they have the liberty to approach this Court.

14. The opposite party no. 2 shall be at liberty to approach the Court through learned A.P.P. Mrs. Indu Kumari Srivastava, if there is any development which requires the attention of the Court.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	

