

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 9883 of 2012

1. Harendra Rai Son of Sri Bijuli Rai.
2. Bijuli Rai son of Dularchand Rai (deleted vide order dated 26.11.2018)
3. Saraswati Devi wife of Bijuli Rai. All resident of Village- Jalalpur, P.O.
Bishupura, P.S. Sidhwalia, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Anita Rai Wife of Harendra Rai Resident of Village- Jalalpur, P.O.
Bishupura, P.S. Sidhwalia, District- Gopalganj.
3. Commanding Officer, INS Nireekshak, C/o FMO Naval Base Kochi, Kerala.
4. Commissioner of Police/Sr. Superintendent of Police/Superintendent of
Police, Kochi, Kerala.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Naresh Chandra Verma, Advocate
For the Opposite Party/s	:	Mrs. Rani Kumari, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, A.P.P.

**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. 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 24.02.2010 passed by learned Sub Divisional Judicial Magistrate, Patna in Complaint Case No. 450(C) of 2009 filed for offence punishable under Section 498, 323, 324, 406 of Indian Penal Code and Section 3/4 of Dowry Prohibition Act but the cognizance has been taken under section 498A of the Indian Penal Code and section 4 of Dowry Prohibition Act against the petitioners.”

3. During the pendency of the application, petitioner no. 2 having died, his name has been expunged.

4. The opposite party no. 2 has filed the complaint case alleging torture for dowry against the petitioner no. 1, who is the husband and in-laws.

5. At the very outset, learned counsel for the petitioners drew the attention of the Court to order dated 26.03.2019, in which it has been recorded that there was an offer of Rs. 10 lakhs from the side of the petitioners for one time settlement to be paid to the opposite party no. 2. However, at that time, learned counsel for the opposite party no. 2 had no instructions. Today, learned counsel for the opposite party no. 2, upon instructions submitted that she is agreeable to one time settlement for Rs. 15 lakhs.

6. On such stand, learned counsel for the petitioners submitted they are ready to pay the amount.

7. On a query of the Court to learned counsel for the opposite party no. 2 as to whether she is agreeable to the



complaint case as well as maintenance case filed by her before the Additional Principal Judge, Family Court, Patna to be closed, she took a categorical stand that all cases filed by her shall not be pressed and that she would have no grievance against the petitioners. It was further submitted that the parties would file for mutual divorce before the Additional Principal Judge, Family Court, Patna.

8. Having regard to the aforesaid, the Court finds that all pending matters between the parties need to be finally concluded so that they are free in future to lead their lives independently, for which a decree of divorce is also required.

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

10. The entire criminal proceeding arising out of Complaint Case No. 450(C) of 2009, pending before the Court below at Patna, including the order dated 24.02.2010, by which cognizance has been taken, stands quashed.

11. Further, the proceeding before the Additional Principal Judge, Family Court, Patna being Maintenance Case No. 246M of 2012, shall remain stayed till the opposite party no. 2 files petition for withdrawal of the same.



12. The petitioners have undertaken before the Court that they shall pay the amount of Rs. 15 lakhs in favour of the opposite party no. 2, latest by 15th July, 2019. Upon doing so, the opposite party no. 2 shall file a petition, within 15 days thereafter, for withdrawal of the Maintenance Case No. 246M of 2012, before the Court concerned. Upon the same being filed, the Court concerned shall pass appropriate orders disposing off the matter. Further, upon the amount being paid, within 15 days of the same, the petitioner no. 1 and opposite party no. 2, shall file a joint petition seeking mutual divorce before the Principal Judge, Family Court, Patna. Upon doing so, the Court shall not insist for the minimum required waiting period and shall proceed to pass orders in terms of the compromise arrived at between the parties and recorded in this order.

13. If the petitioners fail to pay an amount of Rs. 15 lakhs to the opposite party no. 2 by 15th July, 2019, the present order shall automatically stand recalled and the present application shall be deemed to have been dismissed.

14. On the other hand, if the opposite party no. 2, does not file a petition for withdrawal of the Maintenance Case filed by her and also does not file a joint petition for mutual divorce within the time stipulated, the petitioners shall be at liberty to file an



appropriate application before this Court for passing orders, as
may be deemed necessary.

(Ahsanuddin Amanullah, J.)

P. Kumar

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