

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 33350 of 2011

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1. Ganga Devi Wife of Upendra Jha
 2. Upendra Jha Son of Deokan Jha
 3. Raghuvir Jha Son of Upendra Jha
 4. Rakhi Devi Wife of Raghuvir Jha
 5. Balbir Jha Son of Upendra Jha

All residents of Village- Mahrajpur P.S. Khajauli, District- Madhubani, At present 15/12/A Road, Kolkata-700031.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mrs. Chandani Jha Wife of Balbir Kumar Jha, Daughter of Sri Khela Nand Jha, resident of Village Mahrajpur, P.S. Khajauli, District- Madhubani, at present resident of Village- Mangrauni, P.S. Rajnagar, District- Madhubani.

... .. Opposite Party/s

with

Criminal Miscellaneous No. 14724 of 2014

Arising Out of Complaint Case No.-1423 Year-2008 Thana- MADHUBANI COMPLAINT
CASE District- Madhubani

Jaibir Jha Son of Upendra Jha, Resident of Village/Mohalla Mahrajpur, Police Station Khajauli and District Madhubani. At Present Resident Of 15/12 Road, P.S. & District- Kolkata-700031.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mrs. Chandani Jha Wife of Balbir Kumar Jha, Daughter of Sri Khela Nand Jha, Village/Mohalla Mahrajpur, Police Station Khajauli and District



Madhubani, At Present Resident of Village Mangrauni, Police Station
Rajnagar, District Madhubani.

... .. Opposite Party/s

Appearance :

(In Criminal Miscellaneous No. 33350 of 2011)

For the Petitioner/s : Mr. Raj Kumar and
Mr. Ratnakar Jha, Advocates

For the Opposite Party/s : Mr. Shailendra Kumar Singh, A.P.P.

(In Criminal Miscellaneous No. 14724 of 2014)

For the Petitioner/s : Mr. Raj Kumar and
Mr. Ratnakar Jha, Advocates

For the Opposite Party/s : Mr. Madan Kumar, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 18-01-2019

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

2. The petitioners have moved the Court under Section
482 of the Code of Criminal Procedure, 1973 (hereinafter referred
to as the 'Code') against the order dated 08.06.2009, passed in
C.R. Case No. 1423 of 2008, by the Sub Divisional Judicial
Magistrate, Madhubani, by which cognizance has been taken
against them under Sections 498A and 323 of the Indian Penal
Code.

3. The complainant is the wife of petitioner no. 5 in Cr.
Misc. No. 33350 of 2011 and the other petitioners are his close
relatives. The allegation is of demand of dowry, torture and assault
and also taking of signature on blank paper at gun point. On



04.01.2019, the Court had recorded the following at paragraph no.

2:

“2. Pursuant to order dated 06.12.2018, a report has been submitted by Ms. Rashmi Kumari, Para Legal Volunteer dated 14.12.2018, in which she has stated that she went to the residence of the opposite party no. 2, where she was unavailable and she meet her nephew who informed that she has again married and living in her matrimonial home in Delhi. It has also been stated that on telephonic talk with the opposite party no. 2, she informed that she does not desire to contest the present matter. On a query of the Court that though the petitioner no. 5 of Cr. Misc. No. 33350 of 2011, has obtained an ex-parte divorce decree but being the husband and the nature of allegation, how it is proposed to compensate the opposite party no. 2 for having suffered such maltreatment, learned counsel for the petitioners submitted that the matters may be adjourned for a few days to enable him to take instructions specifically on this point.”

4. Thereafter, on 10.01.2019, the Court had asked learned counsel for the petitioners to file an affidavit with regard to movable and immovable properties of Balbir Jha, one of the petitioners. In terms thereof, an affidavit has been filed giving details of the properties, both movable and immovable, belonging to Balbir Jha, who is the husband of the complainant. From the same, it transpires that with regard to immovable property, 2.5 kathas of land in the village would come in his share from the ancestral side and besides that he has a motorcycle in his name and was initially working as a salesman in a *Kirana* shop in



Kolkata and drawing a salary of Rs. 5,000/- per month and subsequently, got engagement as a taxi driver and earning Rs. 12,000 to 15,000/- per month.

5. Learned counsel for the petitioners submitted that in the aforesaid background, Balbir Jha has instructed him to inform the Court that he can afford to pay Rs. 1.5 lakhs to the opposite party no. 2, by way of a one time compensation. It was further submitted that Balbir Jha has also instructed that he may be given five months time to pay the amount.

6. The Court upon taking assistance from learned A.P.P., is of the opinion that in the present facts and circumstances of the case, especially that the opposite party no. 2 has categorically stated that she does not want to continue with the case and further, about her being married and living in the new matrimonial home, the present is a case where the Court should exercise its inherent power under Section 482 of the Code. It is relevant to note here that Balbir Jha had already taken an ex parte divorce from the opposite party no. 2 and, thus, the remarriage of opposite party no. 2 appears to be without any legal hitch.

7. For reasons aforesaid, the applications are allowed. The entire proceedings arising out of C.R. Case No. 1423 of 2008, including the order taking cognizance dated 08.06.2009, pending



before the Court below at Madhubani, stands quashed. However, the aforesaid order is subject to payment of Rs. 1.5 lakhs by Balbir Jha, one of the petitioners, to the opposite party no. 2, by depositing the same in her Bank account latest by 30th June, 2019, failing which the order quashing the criminal case shall automatically stand recalled and C.R. Case No. 1423 of 2008 shall stand restored to its original file and number.

8. Let the lower Court records be returned forthwith.

(Ahsanuddin Amanullah, J.)

P. Kumar

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