

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 11569 of 2012

1. Sumitra Devi, Wife of Ram Nath Sharma, Resident of Village Agapur Nayatol, P.S. Mansoor Chak, District Begusarai (Bihar).
2. Shyam Kumar Sharma, Son of Ram Nath Sharma, Resident of Village Agapur Nayatol, P.S. Mansoor Chak, District-Begusarai (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sangita Devi, Wife of Ram Shankar Sharma, Resident of Village- Agapur Naytol, P.S. Mansoor Chak, District- Begusarai at present Daughter of Ram Sagar Sharma, Resident of Village- Sahiyar Burj, P.S. Rosera, District- Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vinay Kumar Mishra, Advocate
For the Opposite Party No. 2	:	Ms. Mira Kumari, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 20-06-2019

Heard learned counsel for the petitioners; learned APP for the State and learned counsel for the opposite party no. 2.

2. Learned counsel for the petitioners submitted that during the pendency of the application, petitioner no. 1 died on 10.03.2017.

3. In view thereof, the name of petitioner no. 1 is expunged as a petitioner in the present application. The application now remains restricted to petitioner no. 2.



4. The petitioner has moved the Court under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') for the following relief:

“That this is an application for quashing the entire prosecution including Order dated 27.12.2010, passed by Learned A.K. Gond, J.M. Ist Class, Koseira, Samastipur in Complaint Case No. 396 of 2007 by which the petitioners have been summoned as additional accused.”

5. The allegation against the petitioner and five others was of demand of dowry, torture and assault and also taking away of the jewellery of the opposite party no. 2-complainant.

6. Learned counsel for the petitioner submitted that he is the brother of the husband of the opposite party no. 2 and had no role in the matrimonial discord between the husband and the wife. It was submitted that the allegations have been made only to harass the petitioner and also to exert undue pressure on his brother and other family members to act as per the dictates of the opposite party no. 2. Learned counsel submitted that after filing of the complaint, a compromise has also been arrived at between the parties and such petition has been filed before the Court below on 18.08.2011. It was submitted that in view of the matter being related to matrimonial dispute, once the opposite party no. 2 has entered into a compromise, the criminal proceeding is required to be terminated. Learned counsel submitted that even when the



matter was sent for Mediation, despite notice, the opposite party no. 2 did not appear before the Mediator and, thus, the same failed.

7. Learned APP fairly submitted that in view of the compromise filed before the Court below, the present case deserves to be interfered with.

8. Learned counsel for the opposite party no. 2 was not in a position to controvert the filing of a joint compromise before the Court below. Further, she was also not in a position to explain why the opposite party no. 2 did not appear before the learned Mediator.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that a case for interference has been made out.

10. The Court has been persuaded basically in the background that there has been a compromise between the parties and the opposite party no. 2 has signed the petition stating that she wants the case to be closed. Further, her conduct of not appearing despite notice, before the learned Mediator and learned counsel representing her before the Court not being in a position to controvert the compromise or explain such non appearance, indicates that she has no grounds to oppose the application.



11. The Hon'ble Supreme Court in **State of Maharashtra v. Vikram Anantrai Doshi** reported as (2014) 15 SCC 29, has laid down certain guidelines where inherent power under Section 482 of the Code may be exercised, paragraph no. 18 of which reads as under:

“18. Recently, in Narinder Singh v. State of Punjab, a two-Judge Bench placed reliance on Gian Singh case and Dimpey Gujral v. UT, Chandigarh and distinguished the decision in State of Rajasthan v. Shambhu Kewat, and came to hold that in the facts of the said case the proceedings under Section 307 deserved to be quashed. The two-Judge Bench laid down certain guidelines by which the High Courts would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement. Some of the guidelines which are relevant for the present purpose are reproduced below: (Narinder Singh case SCC p. 483, para 29)

“29.2. (II) When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. (III) Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the



offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. (IV) On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. (V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

12. In the present case, in the considered opinion of the Court, taking note of the aforesaid judgment in **Vikram Anantrai Doshi** (*supra*), the matter basically relating to matrimonial dispute and the parties having settled the matter, letting the criminal case to continue would be an abuse of the process of the Court.

13. Accordingly, the application is allowed. The entire criminal case arising out of Complaint Case No. 396 of 2007, pending before the Court below at Rosera, Samastipur, including the order dated 27.12.2010 by which cognizance has been taken, as far as it relates to the present petitioner (original petitioner no. 2), stands quashed.

14. In terms of order dated 18.02.2019, the Registrar General has submitted a report to the Court with regard to fixing



of responsibility and action taken against the concerned employees of the Registry for not having communicated the order passed by the Court in the present case dated 03.12.2012 to the Patna High Court Mediation Centre.

15. In view of action already taken by the Registrar General, the Court does not deem it necessary to pass any further order on the said issue.

(Ahsanuddin Amanullah, J.)

P. Kumar

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