

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15872 of 2011

1. Upmanyu Barnwal @ Pappu S/o Late Krishna Bhuhsan Gupta
2. Kanak Barnwal W/o Late Krishna Bhushan Gupta
3. Santoshi Barnwal S/o Late Krishna Bhushan Gupta
All are R/o Moh: Shyampuri Colony, House No. S-26/715, Mirpur Bashi,
P.S.- Shivpur, District- Varanasi.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Nisha Barnwal @ Moni Barnwal W/o Upmanyu Barnwal @ Pappu, R/o
Shyampuri Colony, House No. S-26/715 Mirapur Bashi, P.S.- Shivpur,
District- Varanasi, at present R/o Arvind Prasad, Ward No. 5, Rosera,
Mohalla- Prabhu Thakur P.S.- Rosera, District- Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Altamish with Mr. Shailesh Kumar, Advocates
For the State	:	Mr. Ashok Kumar Singh 1, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 11-01-2019

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

2. Despite learned counsel entering appearance on
behalf of the opposite party no. 2, nobody was present when the
case was taken up and heard.

3. Yesterday the Court had recorded the following order:

*“Learned counsel for the petitioners
and learned A.P.P. for the State have assisted the
Court. Despite learned counsel entering
appearance on behalf of opposite party no. 2,
nobody was present when the case was taken up
and heard.*

*2. Learned counsel for the petitioners
heavily relied upon a compromise entered into*



between the parties in Trial No. 3534 of 2006, before the Court of the Judicial Magistrate at Varanasi in the State of Uttar Pradesh on 24.05.2010, in which in lieu of payment of Rs. 1,51,000/-, the parties had agreed to settle all cases, including the present one. The petitioner no. 1 had paid Rs. 1,00,000/- upfront to the opposite party no. 2 then only, but the rest Rs. 51,000/- was subject to the compromise being filed before the Court below in the present case.

3. On a query of the Court to learned counsel for the petitioners as to whether the remaining Rs. 51,000/- has been paid, learned counsel expressed his ignorance. The Court does not appreciate the conduct of the petitioners. If they have filed a case, it is their duty to inform learned counsel as it is within their knowledge whether the remaining Rs. 51,000/- has been paid to the opposite party no. 2 or not. This itself may be a ground for the Court not to interfere.

4. At this stage, learned counsel for the petitioners prayed for one last indulgence and submitted that the matter be passed over for the day to enable him to get instructions.

5. In view thereof, as prayed for by learned counsel for the petitioners, the matter is adjourned for the day.”

4. Today, learned counsel for the petitioners submitted that he has taken instructions, according to which, the remaining amount of Rs. 51,000/- was also paid to the opposite party no. 2, after acquittal in Trial No. 3534 of 2006 by the court below at Varanasi in the State of Uttar Pradesh on 03.06.2010. It was further submitted that perusal of the lower court records in the present case indicates that since then the opposite party no. 2 has also stopped appearing in the present case before the court below which



indicates that she has received the remaining amount of Rs. 51,000/- also.

5. In view of the aforesaid and after going through the compromise petition filed by the parties in the court at Varanasi in which at paragraph no. 6 it has been stated that after filing of compromise petition in the court below the remaining amount of Rs. 51,000/- shall be paid to the opposite party no. 2, meaning thereby that the present case was also part of the compromise, the Court finds that the matter now requires to be finally closed.

6. Accordingly, the application is allowed. Complaint Case No. 559 of 2006 as well as the order dated 25.09.2006 by which cognizance has been taken against the petitioners under Sections 498A and 323/34 of the Indian Penal Code stands quashed.

7. The lower court records be returned to the court below forthwith.

(Ahsanuddin Amanullah, J)

Anjani/-

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