

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78907 of 2019

Arising Out of PS. Case No.-361 Year-2006 Thana- MUZAFFARPUR TOWN District-
Muzaffarpur

-
1. Nawal Banka @ Nawal Kishore Banka, male aged about 63 years, S/o Late Banwari Lal Banka Permanent resident of Banka Bazar, Motijheel, P.S.- Town, District- Muzaffarpur, Presently residing at Flat no. 4B, 8/1/3, Loudon Street, Circus Avenue, Kolkata- 17
 2. Kaushal Kishore Mishra @ Kaushal Mishra, male aged about 60 years, S/o Dev Narayan Mishra Resident of Gannipur, Mishra Tola, P.S.- Kaji Mohammedpur, Muzaffarpur

... .. Petitioners

Versus

1. The State Of Bihar
2. Anamika Banka W/O Nawal Kishore Banka R/O Mohalla- Banka Bazaar, P.S. Town, District-Muzaffarpur

... .. Opposite Party

with

CRIMINAL MISCELLANEOUS No. 81810 of 2019

Arising Out of PS. Case No.-147 Year-2005 Thana- MUZAFFARPUR TOWN District-
Muzaffarpur

Anamika Devi @ Anamika Banka, female, aged about 57 years, Wife of Shri Nawal Kishore Banka Resident of Banka Bazar, Motijheel, Brahmpura, P.S.- Town, District- Muzaffarpur.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

(In CRIMINAL MISCELLANEOUS No. 78907 of 2019)

For the Petitioner/s : Mr.Gautam Kumar Kejriwal, Advocate
Mr. Alok Jha, Advocate
Ms. Aishwarya Riti, Advocate

For the Opposite Party/s : Mr.Prabhat Ranjan, Advocate
Mr. Chandan, Advocate

(In CRIMINAL MISCELLANEOUS No. 81810 of 2019)

For the Petitioner/s : Mr.Prabhat Ranjan, Advocate
Mr. Chandan, Advocate

For the Opposite Party/s : Mr.Gautam Kumar Kejriwal, Advocate
Mr. Alok Jha, Advocate
Ms. Aishwarya Riti, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 16-12-2019

Pursuant to the order dated 03.12.2019 passed in



Cr. Misc. No. 78907/2019, by virtue of the minutes of the Hon'ble the Chief Justice, both the cases have been tagged for disposal. Learned counsel for the parties are present and have jointly prayed for disposing of both the applications by a common order.

In Cr. Misc. No. 78907 of 2019, petitioner no. 1 is the husband of opposite party no. 2 whereas petitioner no. 2 is an employee of petitioner no. 1. Both the petitioners are seeking quashing of the order dated 22.03.2013 passed by learned Sub-Divisional Judicial Magistrate (East) Muzaffarpur in Muzaffarpur Town P.S. Case No. 361/2006 by which charges have been framed against the petitioners under Section 498A/34 of the Indian Penal Code. The petitioners have prayed for quashing of the entire proceeding of Muzaffarpur Town P.S. Case No. 361/2006.

In Cr. Misc. No. 81810 of 2019, the petitioner is wife of petitioner no. 1 in the first case, she has challenged the entire proceedings of Muzaffarpur Town P.S. Case No. 147/2005 pending in the court of learned Chief Judicial Magistrate, Muzaffarpur.

Learned counsel for the parties have come



together to submit that both the parties have settled their disputes by way of a compromise and have decided to put an end to all the dispute and litigation pending against each other. It is submitted that the offences for which the F.I.Rs. Have been lodged are compoundable offences save and except Section 498A I.P.C. however the same may be permitted to be amicably settled and the prosecution be quashed by this court in exercise of it's power under Section 482 Cr.P.C..

Learned counsel for the opposite party no. 2 in Cr. Misc. No. 78907/2019 who is the petitioner in Cr. Misc. No. 81810 of 2019 has also prayed the same before this court.

Considering the facts and circumstances of the case wherein both the parties have settled their dispute amicably, petitioner no. 1 in the first case is the husband of opposite party no. 2 in the said case and they had at one point of time lodged case against each other but now they have settled their dispute, this court deems it just and proper that in the interest of justice the prayer of the parties saying that they have settled their disputes amicably, hence both the proceedings are fit to be quashed be accepted. Accordingly, this court



invoke its power under Section 482 Cr.P.C. and hereby quashes both the proceedings being Muzaffarpur Town P.S. Case No. 361/2006 pending in the court of learned Sub-Divisional Judicial Magistrate (East) Muzaffarpur (in Cr. Misc. No. 78907/2019) and Muzaffarpur Town P.S. Case No. 147/2005 pending in the court of learned Chief Judicial Magistrate, Muzaffarpur (in Cr. Misc. No. 80810/2019).

Learned counsel for both the parties have requested this court to incorporate the terms and conditions which are mentioned in the deed of consent dated 10th October, 2019, the same is incorporated hereunder:

“(i) That the “First Party” & “Second Party” have agreed to withdraw and/or compound in a legal manner all their respective litigations filed by way of Private Complaints or FIR (including criminal revisional application for quashing, applications, etc.) filed against each other and more specifically described ANNEXURE -1 hereto.

(ii) That both the parties will initiate necessary action on their party as may be required, for said withdrawal within a period of fifteen days from the date of execution of this Deed.

(iii) That both the parties shall not continue any of the subject-litigation against each other henceforth and will co-operate with each other in a legal manner so that the aforesaid pending subject-litigation can be withdrawn and/or disposed of.

(iv) That both the parties shall not file any further appeal, review or revision etc. against any order of allowing withdrawal/non-prosecution passed by any Court of Law in the subject – litigation.

(v) That after execution of this Deed, both the parties



undertake that there will not be any monetary or other claims against each other, either in individual capacity or against any company or firm whatsoever, in any manner or of any kind, whatsoever, in future and further they will not initiate, lodge and/or prosecute any case against each other over the self same subject matter.

(vi) That both the parties hereto record that they do not have any pecuniary claims of principal amounts, interests, costs, damages, defamation, litigation cost etc. against each other, if any and neither of them shall make any such claim against the other party in future.

(vii) That it is recorded that all the parties to this consent deed have accorded their consent out of their free will and without any pressure from anybody.

(viii) That both the parties are entitled and authorized to produce this Deed of consent before the respective Hon'ble Court of Law on their own and get the respective legal case disposed of in terms of this Deed. If required, a separate application will be filed by both the parties to dispose of the subject-litigation.

(ix) That in the matter of Criminal FIR No. 473/06 filed before the Town Police Station, Muzaffarpur, the Second Party shall file an application for withdrawal of charge and be compounded by making an application under Section 320 of the Code of Criminal Procedure, 1972 and will extend such legal co-operation as may be required by the First Party so as to quash the proceeding under the said FIR. If required an application will be filed before the Hon'ble High Court for quashing of FIR by the first party and the second party shall accord their consent for quashing of FIR before the Hon'ble Court by filing affidavit.

(x) That similarly, in the matter of FIR No. 361/06 filed before the Police Station, Town Muzaffarpur appearing as item no. 1 in the Schedule, in which charge sheet has been filed; be compounded by making application under section 320 of the Code of Criminal Procedure, 1972 within fifteen days from the date of signing of the present agreement. Alternatively, the Second Party may get it quashed in a legal manner before the Hon'ble Courts of India or such other proceeding as may be permissible under



law and the First Party shall extend its fullest legal co-operation to them as may be required including filing affidavit in support of quashing of the Charge Sheet and or FIR.

(xi) The case appearing as item no. 2 in the Schedule, being the Case corresponding FIR No. 147/05 and its subsequent charge sheet being pending before the Ld. Court, Muzaffarpur filed by the Second Party against First Party shall be compounded by making application under Section 320 of the Code of Criminal Procedure, 1972 within fifteen days from the date of execution of this Deed and Second Party shall extend its fullest cooperation for compounding/withdrawal/dismissal of the same.

(xii) The terms and conditions recorded herein shall be treated as consideration for respective parties.

(xiii) That this deed of settlement has been drawn in three originals duly stamped & signed by both the parties hereto and each party shall retain one original for its future use.

(xiv) That both the parties have hereby settled all their disputes/differences in general irrespective of the fact that any legal action has been taken thereof or not or any specific litigation has been mentioned in the Annexure – 1 hereto or not. Both the parties will maintain good and cordial business relationship in future.

(xv) That this deed of consent shall be applicable to all the accused impleaded in a particular litigation as mentioned in Annexure – 1 hereto irrespective of the fact that whether they have signed on this deed or not.

(xvi) Both the parties will bear their own costs of litigation.”

Both these applications are allowed, accordingly.

(Rajeev Ranjan Prasad, J)

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