

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34753 of 2017

Arising Out of PS. Case No.-77 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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Sanjeev Ranjan Son of Late Acharya Girdhari Shastri, Resident of Village-'Jai
Ghar' Tahir Lane, P.s.-Gardanibagh, District-Patna.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Tripti Bharti W/o Sanjeev Ranjan R/o Vill-ji Ghar, Tahir Lane, P.S.-
Gardanibag, District-Patna, at Present D/o Devendra Prasad, R/o Mohalla-
Arya Nagar, Moti Chauk, P.O. and P.S.-Khagaul, District-Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bipin Kumar
For the Opposite Party/s : Mr.Sri Jagdhar Prasad

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 18-08-2022

1. Heard learned counsels for the petitioner and the
opposite party no.2 as well as learned APP for the State.

2. The present petition has been filed by the petitioner
for quashing the order dated 03.05.2017 passed by the learned
S.D.J.M., Danapur in Complaint Case No. 77(C) of 2017 whereby
and whereunder the learned S.D.J.M., Danapur has taken
cognizance for the offence punishable under Section 498(A) of the
IPC against the petitioner on the ground that both the parties have



amicably settled their dispute in the light of joint compromise petition.

3. The prosecution case in brief is that marriage of the opposite party no. 2 was solemnized with the petitioner on 25.11.2015. Everything went well for the first ten days and thereafter, demand for Honda City Car was made and due to non-fulfillment of aforesaid demand, complainant/opposite party no. 2 was subjected to assault and torture by the accused persons including the petitioner, leading to filing of Complaint Case No. 77 (C) of 2017 under Sections 323, 341, 397, 406, 498(A) of the I.P.C. Subsequently, the learned Sub Divisional Judicial Magistrate, Danapur vide order dated 03.05.2017 took cognizance under Section 498 A of the I.P.C., which is the subject matter of the present proceeding.

4. Learned counsel for the petitioner submits that both parties have amicably settled the dispute outside the court and have filed joint compromise petition. learned counsel for the petitioner further submits that in terms of the settlement, the petitioner (husband of opposite party no.2) agreed to pay a sum of Rs. 17.5 lakhs (Seventeen Lakhs and Fifty Thousand) to the wife (opposite party no. 2/complainant) as final settlement between the parties and after receipt of aforesaid payment, there will be no



relation of husband and wife between the parties. Both parties are free to lead their life as per their wishes. Both parties are free for marriage or any type of social engagement. Both parties agreed not to interfere in the life of each other. No body will claim any right in the property of each other. Both parties agreed to withdraw the cases pending in different-different courts. The complainant shall file an application for withdrawal of Complaint Case No. 77(C) of 2019 pending in the court of learned S.D.J.M., Danapur, Patna as well as Maintenance Case No. 333 of 2017 pending in the court of learned Principal Judge, Family Court, Patna. Similarly, petitioner shall withdraw Divorce Case bearing Matrimonial Case No. 1311 of 2016 pending in court of learned Principal Judge, Family Court, Patna. Both parties agreed to file an application under Section 13(B) of the Hindu Marriage Act for mutual divorce.

5. Learned counsel for the petitioners further submits that now full and final settlement has been made and the total sum of Rs. 17.5 lakhs (Seventeen Lakhs and Fifty Thousand) has been paid to the opposite party no. 2 through cheques mentioned in the joint compromise petition and there is no further dispute remained pending between both the parties.



6. Learned counsel for the opposite party no. 2 does not oppose the submissions made on behalf of the learned counsel for the petitioner and supports the submission that all the disputes have been settled and the opposite party no. 2 does not want to proceed further in the matter.

7. The learned APP appearing on behalf of the State has no objection for quashing the cognizance order as the matter has been amicably settled after compromise between the husband and wife.

8. Learned counsel for the petitioner, learned counsel for opposite party no. 2 and the learned APP for the State jointly submit that in the changed circumstances, the continuance of the criminal proceeding would be abuse of the process of the Court. Since the offence under Section 498A IPC is not compoundable, the trial court is helpless to close the proceeding.

9. Perused the records.

10. Though the offence under Section 498A of the Indian Penal Code is concerned, the same is not compoundable. However, Supreme Court in the case of *B.S. Joshi & Ors. Vs. The State of Haryana and Ors., reported in (2003) 4 SCC 675, as also in the case of Jitendra Raghuvanshi Vs. Babita Raghuvanshi, reported in (2013) 4 SCC 58*, examined the



ambit and scope of inherent power of the High Court under Section 482 of the Cr.P.C. in quashing of the criminal proceeding in non-compoundable offences relating to matrimonial dispute.

11. A three-Judge Bench of the Hon'ble Supreme Court in ***Jitendra Raghuvanshi (supra)*** held in paragraphs No. 15 to 17 as under:-

“15. In our view, it is the duty of the courts to encourage genuine settlements of matrimonial disputes, particularly, when the same are on considerable increase. Even if the offences are non-compoundable, if they relate to matrimonial disputes and the court is satisfied that the parties have settled the same amicably and without any pressure, we hold that for the purpose of securing ends of justice, Section 320 of the Code would not be a bar to the exercise of power of quashing of FIR, complaint or the subsequent criminal proceedings.

16. There has been an outburst of matrimonial disputes in recent times. The institution of marriage occupies an important place and it has an important role to play in the society. Therefore, every effort should be made in the interest of the individuals in order to enable them to settle down in life and live peacefully. If the parties ponder over their defaults and terminate



their disputes amicably by mutual agreement instead of fighting it out in a court of law, in order to do complete justice in the matrimonial matters, the courts should be less hesitant in exercising its extraordinary jurisdiction. It is trite to state that the power under Section 482 should be exercised sparingly and with circumspection only when the court is convinced, on the basis of material on record, that allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceedings ought to be quashed. We also make it clear that exercise of such power would depend upon the facts and circumstances of each case and it has to be exercised in appropriate cases in order to do real and substantial justice for the administration of which alone the courts exist. It is the duty of the courts to encourage genuine settlements of matrimonial disputes and Section 482 of the Code enables the High Court and Article 142 of the Constitution enables this Court to pass such orders.

17. In the light of the above discussion, we hold that the High Court in exercise of its inherent powers can quash the criminal proceedings or FIR or complaint in appropriate cases in order to meet the ends of justice and Section 320 of the Code does not limit or affect the powers of the High Court under Section 482 of the Code. Under



these circumstances, we set aside the impugned judgment of the High Court dated 04.07.2012 passed in M.C.R.C. No. 2877 of 2012 and quash the proceedings in Criminal Case No. 4166 of 2011 pending on the file of Judicial Magistrate Class-I, Indore.”

12. Similarly, in ***B.S. Joshi & Ors. vs. State of Haryana & Anr. [(2003) 4 SCC 675]***, the Supreme Court had held that the inherent powers of the High Court under Section 482 of the Code are wide and unfettered. It upheld the powers of the High Court under Section 482 of the Code to quash the criminal proceedings where the disputes is of private nature and the compromise is entered into between the parties, who are willing to settle their differences amicably.

13. However, in ***Gian Singh vs. State of Punjab, reported in (2010) 15 SCC 118***, a two Judge bench of the Supreme Court doubted the correctness of the decision of the Supreme Court in ***B.S. Joshi (Supra)*** and referred the matter to a larger Bench. The question referred to was lucidly explained by a three Judge Bench of the Supreme Court in ***Gian Singh vs. State of Punjab, since reported in (2012) 10 SCC 303***. The Court explained the difference between 320 and 482 of the Cr.P.C. and held that:



“Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.”

Thus, it is amply clear that the High Court may quash criminal proceedings or FIR or complaint in exercise of its inherent power under Section 482 of the Code which is unaffected by the provisions of Section 320 Cr.P.C. Though the two powers are distinct and different yet the ultimate consequence may be same viz., acquittal of the accused or dismissal of indictment. Inherent power of the High Court under



Section 482 Cr.P.C is seemingly unfettered but it has to be exercised in accordance with the limitation mentioned in the provision itself, i.e. (i) to give effect to any order under the Code of Criminal Procedure. (ii) to prevent abuse of the process of any Court or (iii) to secure the ends of justice.

14. Having considered the provisions under Section 482 Cr.P.C and the law laid down by the Supreme Court in ***B.S. Joshi (Supra), Gian Singh(Supra-2), Jitendra Rahuvanshi (supra) and M.A. Arshad and Ors. Vs. The State of Bihar and Anr. reported in 2017 SCC Online Pat 2779***, it is clear that, if the matter relates to matrimonial disputes and the Court is satisfied that the dispute has been settled by the parties amicably, there would be no bar under Section 320 of the Cr.P.C. for exercise of inherent power of the quashing of the First Information Report, complaint or the subsequent criminal proceedings even if the offences are non-compoundable.

15. Having regard to the aforesaid facts and circumstances and also to the fact that the parties have resolved their dispute amicably and has brought on record the subsequent events by filing affidavit, showing amicable settlement between the parties and which has not been contested by the opposite



party no.2, this Court is of the considered view that allowing the further proceedings to continue in the trial court would not be in the interest of justice as the same may lead to unnecessary harassment, agony and pain not only to the petitioner, but also to the opposite party no.2 and would be tantamount to an abuse of the process of the Court.

16. Therefore, in the light of joint compromise petition filed on behalf of the parties, the present application is allowed and order taking cognizance dated 03.05.2017 passed by learned S.D.J.M., Danapur in Complaint Case No. 77(C) of 2017 is hereby quashed, so far as petitioner is concerned.

(Alok Kumar Pandey, J)

shahzad/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.09.2022
Transmission Date	02.09.2022

