

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48619 of 2014

Arising Out of PS. Case No.-308 Year-2006 Thana- COMPLAINT CASE District- Supaul

1. Md. Mukhtar and Anr. son of Md. Ebrahim Resident of Village-Koyali, P.S- Birpur, Dist.-Supaul
2. Bibi Nirasan wife of Md. Mukhtar resident of village - Koyali, P.S. - Birpur, District - Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bibi Ashia D/o Md. Musha resident of village - Babuan, P.S. - Ghurna, District - Arariya.
3. The Superintendent of Police, Supaul Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Neeraj Kumar, Advocate
	:	Mr. Abhishek Singh, Advocate
For the State	:	Mr. Shyam Kumar Singh, APP
For the O.P. No.2	:	Mr. Abhay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

14 08-12-2022 At the outset, learned counsel appearing on behalf of the petitioners submitted that matter has been compromised between the parties and in furtherance of compromise, payment of Rs.95,000/- (Rupees Ninety Five Thousand) was made to complainant/wife/O.P. No.2, namely, Bibi Ashia, through demand draft issued in favour of O.P. No.2, namely, Bibi Ashia dated



08.12.2022 bearing No. 139886 issued by Punjab National Bank, Bar Council, Patna and same is handed over to the O.P. No.2 in the presence of her counsel Mr. Arun.

Endorsement of receiving of aforesaid demand draft to O.P. No.2 was obtained on the margin of the record.

Heard learned counsel appearing on behalf of the petitioners, learned APP appearing on behalf of the State and learned counsel appearing on behalf of O.P. No.2.

This is an application for quashing the order dated 25.02.2008 passed by learned S.D.J.M., Birpur, District- Supaul in Complaint Case No. 308C of 2006 by which cognizance of offence has been taken against petitioner no.1 under Section 498(A) of the Indian Penal Code.

The prosecution case, in brief, is that O.P. No.2, namely, Bibi Ashia contracted marriage with petitioner no.1, namely, Md. Mukhtar in the year 1992 in accordance with Muslim Law. Further, O.P. No.2 started living in her matrimonial home at Koyali and two daughters were born out of the wedlock, where one of their daughters died. It is alleged that accused persons used to torture O.P. No.2, when she was pregnant with second daughter and petitioner no.1 solemnized marriage with petitioner no.2, namely, Bibi Nirasan without giving di-



force to O.P. No.2. It is alleged by O.P. No.2 that all her in-laws started torturing and making conspiracy to kill her. It is further alleged by O.P. No.2 that they snatched ear ring of Rs.5,000/- (Rupees Five Thousand), nose pin of Rs.9,000/- (Rupees Nine Thousand) and utensils worth Rs.10,000/- (Rupees Ten Thousand).

Learned counsel for the petitioners submitted that the matter has amicably been settled between the parties, where both parties settled their dispute and differences by way of amicable settlement, where O.P. NO.2/wife of the petitioner no.1 has received Rs. 95,000/- (Rupees Ninety Five Thousand).

Learned counsel for O.P. No.2, Mr. Abhay Kumar, also accepted the factum of compromise and acknowledged the receiving of Rs. 95,000/- (Rupees Ninety Five Thousand) from the petitioner no.1, by Opposite Party No.2.

Learned counsel appearing on behalf of petitioners submitted that in view of amicable settlement, continuing with the further process, will only be the harassing exercise, without serving any purpose, particularly, when Trial Courts are burdened with huge pendency, dealing with other important cases.

The power of the High Courts to quash FIRs, while exercising its powers under Section 482 of the Cr.P.C., even, for of-



fences, which are not compoundable under Cr.P.C. has been settled in a number of judgments. In ***Gian Singh v. State of Punjab & Anr. reported in (2012) 10 SCC 303***, the Supreme Court has observed as under:

"61. The position that emerges from the above discussion can be summarised thus : the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz. : (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of



Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."



After relying on Gian Singh (supra), this position has been laid down in ***Narinder Singh & Ors. v. State of Punjab & Anr. reported in (2014) 6 SCC 466***, wherein the Supreme Court has observed as under:

"29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. 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. 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 the 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. 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. 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."

In *State of M.P. v. Laxmi Narayan & Ors.* reported in (2019) 5 SCC 688, the Supreme Court has observed as under :

"15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prose-



ctions which involved 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;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes 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;"

The present case arises out of matrimonial dispute and the allegation has been made by the wife against the husband. The parties have resolved their dispute and differences, where out of said compromise, O.P. No.2/wife, received Rs. 95,000/- (Rupees Ninety Five Thousand).

In the facts and circumstances of the case, this Court is inclined to exercise its powers under Section 482 of the Cr.P.C. on the ground that the dispute is private in nature.

In view of the above, this Court is of the opinion that no useful purpose will be served in continuing with the present proceedings. Resultantly, complaint bearing Complaint Case No. 308C of 2006 and the proceedings emanating therefrom is hereby quashed.

Accordingly, impugned order dated 25.02.2008 is set



aside.

Hence, quashing petition is allowed, in the above terms.

(Chandra Shekhar Jha, J)

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