

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44556 of 2018

Arising Out of PS. Case No.-45 Year-2017 Thana- MAHILA P.S. District- Sitamarhi

1. MD. ASHIF EQUBAL @ PATTU @ MOHD. AASHIF IQBAL @ AASIF IQBAAL and ORS son of Md. Raisul Azam @ Mohd. Raisul Azam @ Md. Raisul Azam Rais
2. Md. Raisul Azam @ Mohd. Raisul Azam @ Md. Raisul Azam alias Rais son of Late Md. Israil
3. Rashid Kamal @ Mohd. Rashid Kamal @ Nirade son of Md. Raisul Azam @ Mohd. Raisul Azam @ Md. Raisul Azam Rais
4. Noor Jahan Begum @ Noor Jahan wife of Md. Raisul Azam @ Mohd. Raishul Azam @ Md. Raisul Azam Rais
5. Sajid Eqbal @ Md. Sajid Eqbal @ Mohd. Sazid Eqbal @ Heera son of Md. Raisul Azam @ Mohd. Raisul Azam @ Md. Raisul Azam Rais
6. Heena Praveen @ Jugnu @ Hena Parvin daughter of Md. Raisul Azam @ Mohd. Raishul Azam @ Md. Raisul Azam Rais
7. Shahin Praveen @ Tunni @ Saahin Parveen @ Shahina Praveen daughter of Md. Raisul Azam @ Mohd. Raishul Azam @ Md. Raisul Azam Rais All are residents of village Kolso, P.O. - Tariyani, District - Sheohar at present resident of village - Azadnagar, Dhaka, P.S. Dhaka, District - East Champaran at Motihari.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Shabiha Naaz wife of Md. Ashif Eqbal @ Pattu @ Mohd. Aashid Eqbal, daughter of Late Nishar Ahmad at present resident of Talkapur Dumra, Nahar Chowk, New Colony near Dr. Smt. Renu Singh, P.S. and District Sitamarhi.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shankar Kumar, Advocate
For the Opposite Party/s	:	Sri Pranav Kumar, APP
For the Informant	:	Mr. Jawed Raftar Khan, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 5 24-11-2022 1. Heard learned counsel appearing on behalf of parties.
2. Present quashing petition preferred on behalf of



aforesaid petitioners for quashing the order dated 02.07.2018, passed in Mahila P.S. Case No. 45 of 2017, GR No. 2952 of 2017, T. No. 2727 of 2018, District-Sitamarhi and passed by Sri Vikram Kumar learned S.D.J.M., Sadar, Sitamarhi, where under, petition dated 02.06.2018, pressed by aforementioned petitioners, as moved under Section 239 of the Cr.P.C., to discharge them, was dismissed, where a submission was raised that said dismissal order was passed in very mechanical manner, without proper appreciation of facts and materials available on records.

3. The case of prosecution in brief speaks that O.P. No. 2, namely, Shabiha Naaz@Rani, wife of petitioner no. 1, namely, Ashif Equbal@Pattu, filed a Complaint Case No. 936 of 2017, in the Court of Learned C.J.M., Sitamarhi alleging thereof that she married with petitioner no. 1 on 16.06.2022 and subsequently on joining matrimonial home, she was subjected to cruelty and harassment on account of insufficient dowry, as raised for a demand of one four-wheeler car and one flat, which was not fulfilled.

4. Learned counsel while appearing on behalf of



petitioners submitted that the matter has been amicably settled between the parties, where both parties settled their dispute and differences by way of amicable one time settlement, where O.P. NO.2/wife of the petitioner to be paid a sum of Rs. 4,00,000/- (Rupees Four Lac) preferably within a period of four months in two installments, where first installment has already paid to O.P. No. 2/wife by petitioner no. 1/husband and the next installment will be paid before 31.12.2022, to O.P. No. 2/wife through her given bank account of State Bank of India, Sitamarhi Branch.

5. Learned counsel for the informant/O.P. No. 2/wife, Mr. Jawed Raftar Khan, also accepted the factum of compromise in aforesaid terms and acknowledged the receiving of Rs. 2,00,000/- (Rupees Two Lac) from the petitioner no. 1, as first installment.
6. Learned counsel appearing on behalf of petitioner submitted that in view of amicable settlement, continuing with the further process, will only harassing exercise, without serving any purpose, particularly when trial courts are burdened with huge pendency, dealing with other important cases.



7. The power of the High Courts to quash FIRs while exercising its powers under Section 482 of the Cr.P.C. even for offences, 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 as (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."

8. After relying on **Gian Singh (supra)**, Hon'ble Supreme Court further held in **Narinder Singh & Ors. v. State of Punjab & Anr.** reported as **(2014) 6 SCC 466**, wherein the Hon'ble 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."

9. In ***State of M.P. v. Laxmi Narayan & Ors.*** reported as ***(2019) 5 SCC 688***, the Supreme Court further 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 prosecutions 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;"

10. Coming down to the fact of present case, which arises out of matrimonial dispute where allegations has been raised by the wife against the husband and her in-laws. The parties have resolved their dispute and differences, where out of said compromise, O.P. No.2/wife, was agreed to accept a sum of Rs. 4,00,000/- (Rupees Four Lac) as one time settlement preferably within a period of four months in two installments, where first installment of Rs. 2,00,000/- (Rupees Two Lac) has already paid to O.P. no. 2/wife, through her bank account available with, State Bank of India, Sitamarhi Branch. Facts and circumstances of the case suggests that dispute is private in nature arises out of matrimonial case due to



insufficient dowry.

- 11.** 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, for the end of justice, F.I.R. bearing Mahila P.S. Case No. 45 of 2017 lodged on 17.07.2017 and the proceedings emanating therefrom are hereby quashed.
- 12.** Accordingly, present quashing petition is allowed.
- 13.** Pending interlocutory application, if any, also, disposed of accordingly, in aforesaid terms.

(Chandra Shekhar Jha, J)

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