

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11653 of 2021

Arising Out of PS. Case No.-320 Year-2020 Thana- SHASTRINAGAR District- Patna

1. Erum, W/o Md. Tanweer Usmani, Resident of Bobara, P.S. and District-Katihar.
2. Sanjay Kumar, Son of Late Inderav Prasad, 15 Eden House, Vyas Colony, Aasiyana Vagar, P.S.-Rajiv Nagar, Patna.
3. Nikhat Yasmin, Wife of Uttam Chandra, 15 Eden House, Vyas Colony, Block-A, Ashiana Road, Patna, Ashiananagar.
4. Uttam Chandra @ Ali, S/o Late Inderav Prasad, 15 Eden House, Vyas Colony, Aasiyana Vagar, P.S.-Rajiv Nagar, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Saniya Khan, D/o Imran Khan, Resident of New Kajoorbanna, Saheb Colony, White House, P.S.-Sultanganj, Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Mishra, Advocate Mrs. Manini Jaiswal, Advocate Mr. Abhishek Mishra, Advocate
For the State	:	Mrs. Renu Kumari, APP
For the O.P. No. 2	:	Mr. Sanjay Kumar Mishra, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 28-07-2022

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

The present petition has been filed by the petitioners for quashing the FIR bearing Shastri Nagar P.S. Case No.320 of 2020, registered for the offences punishable under Sections 498 A/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act, on the ground that both the parties have



amicably settled their dispute on 06.02.2021 and received their belongings from each other.

During the pendency of the present application, the learned court below has taken cognizance of the offence vide order dated 14.12.2021 and the same has also been assailed by filing the I.A. No. 02 of 2022.

The prosecution case in brief is that marriage of the opposite party no. 2 was solemnized with the co-accused Altamash, son of the petitioner no.4, on 03.03.2020 and, thereafter, she was subjected to torture by the accused persons including the petitioners due to non-fulfillment of demand of dowry, leading to filing of an FIR bearing Shastri Nagar P.S. Case No.320 of 2020 under Sections 498 (A)/34 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act. After investigation, the police submitted charge sheet under the aforesaid sections of the Penal Code against the co-accused including the petitioners. Subsequently, the learned Additional Chief Judicial Magistrate-IV, Patna vide order dated 14.12.2021 took cognizance under Section 498A read with Section 34 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act, which is the subject matter of the present proceeding.

Learned counsel for the petitioners submits that the



petitioner no.1 is married sister of the husband of the petitioner, the petitioner no.2 is the uncle of the husband of the petitioner, the petitioner no. 3 is the mother-in-law and the petitioner no.4 is the father-in-law of the opposite party no.2. There is no specific allegation against these petitioners.

Learned counsel for the petitioners further submits that in terms of the settlement, the co-accused Altamash (husband of opposite party no.2) agreed to pay a sum of Rs. 5,00,000/- to the opposite party no.2 and after receipt of which the informant-opposite party no.2 was to take steps for dissolution of marriage and now the marriage had already dissolved vide order dated 09.08.2021 passed in Case No. 2977.

Learned counsel for the petitioners further submits that now full and final settlement has been made and the total sum of Rs. 5,00,000/- has been handed over to the opposite party no.2 and there is no further dispute remains pending between both the parties.

Learned counsel for the petitioners also submits that the husband of the opposite party no.2 and another have filed Cr. Misc. No.60739 of 2021 for quashing of the aforesaid FIR. Upon hearing the parties, a Coordinate Bench of this Court vide judgment dated 07.07.2022 has allowed the aforesaid



application by quashing the entire proceeding arising out of Shastri Nagar P.S. Case No. 320 of 2020, as also the order taking cognizance dated 14.12.2021, so far as petitioners of Cr. Misc. No. 60739 of 2021 were concerned.

Learned counsel for the opposite party no. 2 does not oppose the submissions made on behalf of the learned counsel for the petitioners 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.

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

Perused the records.

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.

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.”

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.

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.

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)*** and ***Jitendra Rahuvanshi (supra)*** 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.

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.

Therefore, the present application is allowed and the entire proceeding arising out of Shastri Nagar P.S. Case No.320 of 2020, as also the order taking cognizance dated 14.12.2021 is hereby quashed, so far as petitioners are concerned.

(Arun Kumar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.08.2022
Transmission Date	10.08.2022

