

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50469 of 2019

Arising Out of PS. Case No.-205 Year-2018 Thana- ISLAMPUR District- Nalanda

1. Kunti Devi, Wife of Sri Jagannath Prasad Shah, Resident of Sector 8D, Quarter No. 1094, Street 46, Bokaro Steel City, District- Bokaro, Pin Code- 827009 (Jharkhand).
2. Jagannath Prasad Shah, Son of Late Jagan Shah, Resident of Sector 8D, Quarter No. 1094, Street 46, Bokaro Steel City, District- Bokaro, Pin Code- 827009 (Jharkhand).
3. Pawan Kumar @ Guddu Son of Sri Jagannath Prasad Shah Resident of Sector 8D, Quarter No. 1094, Street 46, Bokaro Steel City, District- Bokaro, Pin Code- 827009 (Jharkhand).
4. Jyoti Kumari, Daughter of Sri Jagannath Prasad Shah, Resident of Sector 8D, Quarter No. 1094, Street 46, Bokaro Steel City, District- Bokaro, Pin Code- 827009 (Jharkhand).
5. Manju @ Tinku @ Rinku, Wife of Sri Nilesh Narayan Prasad, Resident of Mohalla- Magarhatta, Near Masjid Chowk and BSNL Tower, Police Station- Hajipur, District- Vaishali.
6. Nilesh Narayan Prasad, Son of Sri Shyam Nandan Gupta, Resident of Mohalla- Magarhatta, Near Masjid Chowk and BSNL Tower, Police Station- Hajipur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rajni Kumari, Wife of Shravan Kumar, Daughter of Sri Radhelal Gupta Resident of Mohalla- Hanumanganj, Islampur, Police Station- Islampur, District- Nalanda (Bihar).

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mayank Shekhar, Advocate Mr. Saket Gupta, Advocate
For the Opposite Party/s :		Mr. Nawal Kishore Prasad, APP
For the Opp. Party No.2 :		Mr. Gaurav Singh, Advocate Mr. Anil Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 04-08-2022 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.



2. Heard Mr. Saket Gupta, learned counsel appearing on behalf of the petitioners as well as Mr. Gaurav Singh, learned counsel for the Opp. Party no.2 and the learned APP for the State.

3. By filing the present application under Section 482 of the Cr.P.C., the petitioners are invoking the inherent jurisdiction of this Court seeking quashing of the order dated 17.01.2019, passed by the learned Sub-Divisional Judicial Magistrate, Hilsa, Nalanda in Islampur P.S. Case No. 205 of 2018, corresponding to GR No. 1018 of 2018, by which the learned court below took cognizance for the offences punishable under Sections 341, 323, 504, 498A, 307 read with Section 34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

4. The short facts, which led the filing of the present case is that the marriage of the informant was solemnized with the son of petitioner nos. 1 and 2, namely, Shravan Kumar, on 30.06.2017 and soon after the marriage when the informant went to her matrimonial home, she was subjected to torture for demand of dowry at the hands of the petitioners and her husband. It is further alleged that thereafter the informant went to Chamba in Himachal Pradesh where her husband was posted



as Clerk in the State Bank of India. It is further alleged that the informant was directed to bring Rs.10,00,000/- (Ten lakh) from her parents for the marriage of the daughter of petitioner nos. 1 and 2 and when she shown her inability, she was threatened to her life with dire consequences. The husband of the informant also tried to kill her by pouring Kerosene oil, but she somehow managed to escape.

5. During the course of investigation, on application filed by the investigating officer of the case for adding Section 307 of the Indian Penal Code, the learned court of Sub-Divisional Judicial Magistrate, Hilsa allowed the petition and Section 307 of the Indian Penal Code was added in the F.I.R. After investigation, the police submitted Final Form/Report under Section 173 of the Cr.P.C. vide Final Form No. 381 of 2018 and thereafter the learned Sub-Divisional Judicial Magistrate, Hilsa, Nalanda took cognizance of the offences under Sections 341, 323, 504, 498A, 307/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act vide order dated 17.01.2019.

6. It is submitted by the learned counsel for the petitioners that petitioner nos. 1 and 2 are the parents-in-law of the informant and they reside in the State of Jharkhand. So far



petitioner no.3 is concerned, he happens to be the brother-in-law of the informant, who is an engineer and resides at Bangaluru (Karnataka) and at the relevant period of alleged occurrence, he was posted at Bangaluru (Karnataka). Further petitioner no.4 is the sister-in-law of the informant and at the relevant period of time she was pursuing her studies at Ranchi (Jharkhand). So far petitioner no. 5 is concerned, she is sister-in-law of the informant and married to petitioner no.6 and resides with him at her matrimonial home situated at Hajipur, Vaishali.

7. Learned counsel for the petitioners submitted that the F.I.R. is lodged only with a view to spit the petitioners because of personal grudge and to implicate them in long arduous criminal proceeding by making false and absurd allegations. However, the learned Sub-Divisional Judicial Magistrate, Hilsa, Nalanda without having found any material has taken cognizance of the offences against the petitioners, as stated hereinabove vide order dated 17.01.2019.

8. Being aggrieved by the aforesaid order taking cognizance, the petitioners have filed the present application before this Court seeking quashing of the same.

9. Without making any averment with respect to the merit of the case it is submitted that during the pendency of the



present application, due to intervention of well wishers and the family members, the parties have amicably resolved the dispute and settled the matter outside the Court. Pursuant to the settlement in terms of compromise, opposite party no. 2 and the son of petitioner nos.1 and 2 have filed an application for dissolution of marriage, by decree of divorce, by mutual consent, under Section 13-B of the Hindu Marriage Act, 1955 before the learned Principal Judge, Family Court, Patna and in terms of the compromise, a decree of divorce has been passed by the learned Principal Judge, Family Court, Patna, the copy of which has been brought on record, as annexure- 6 to the supplementary affidavit. It is next submitted that in token of the compromise, the opposite Party No. 2 has also received a Bank draft of rupees eight lakh from the petitioner, as permanent alimony. The details of draft has been also mentioned in the Supplementary affidavit.

10. Learned counsel appearing on behalf of the petitioners submits that in view of the aforesaid compromise arrived at between the parties, the entire criminal case arising out of Islampur P.S. case no. 205 of 2018 is set at rest and both the parties do not want to proceed the matter against each other. It is also submitted that the aforesaid fact has also been admitted



by the opposite party no.2 and since the dispute has amicably settled, there is no further dispute remains pending between both the parties.

11. Learned counsel appearing on behalf of the opposite party no.2 does not confront the submissions made on behalf of the learned counsel for the petitioners and fairly submits that all the disputes have finally amicably settled and opposite party no.2 does not want to proceed any further in the matter.

12. It is needless to say so far the offence under Sections 498A and 307 of the Indian Penal Code are concerned, the same are not compoundable. However, in catena of judgment passed by the Hon'ble Supreme Court in the case of **B.S. Joshi & Ors. Vs. The State of Haryana and Ors.**, since reported in (2003) 4 SCC 675 as also in the case of **Jitendra Raghuvanshi Vs. Babita Raghuvanshi**, since reported in (2013) 4 SCC 58, 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 was discussed and adjudicated. 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.CR.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.”

13. An identical issue had arisen earlier before the Supreme court in B.S. Joshi & Ors. vs. State of Haryana & Anr. [(2003) 4 SCC 675]. In that case, 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.

14. In **Gian Singh vs. State of Punjab**, since reported in **(2010) 15 SCC 118**, a two Judge bench of the Hon'ble Supreme Court doubted the correctness of the decision of the Hon'ble 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 Hon'ble 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.”

15. The High Court may quash criminal proceedings or FIR or complaint in exercise of its inherent power under Section 482 of the Code and Section 320 does not limit or affect the powers of the High Court under Section 482. There does exist the distinction between compounding of an offence under Section 320 and quashing of a criminal case by the High Court in exercise of inherent power under Section 482. The two powers are distinct and different although ultimate consequence may be same viz., acquittal of the accused or dismissal of indictment. 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.

16. Having considered the law laid down by the Hon'ble Supreme Court in **B.S. Joshi** (Supra), **Gian Singh** (Supra) and **Jitendra Rahuvanshi** (supra) it is clear that even if



the offences are non-compoundable, if the matter relates to matrimonial disputes and the Court is satisfied that the parties have settled the same amicably, there would not be a bar under Section 320 of the Cr.P.C. in exercise of inherent power of the quashing of the First Information Report, complaint or the subsequent criminal proceedings.

17. In view of the aforesaid facts and circumstances, it would be evident that as the parties have decided to settle all the controversies amicably and to the said effect a supplementary affidavit has also been filed bringing on record the subsequent events showing amicable settlement between the parties, which has not been controverted by the opposite parties. Subsequently, keeping in mind, the decision of the Hon'ble Supreme Court, as discussed herein above, this Court is of the view that allowing the further proceeding to continue in the court below in case of the petitioners may lead to unnecessary harassment, agony and pain not only to accused persons, but also to the informant/opposite party no.2.

18. For the reasons stated above, allowing the prosecution to continue as against the petitioners is to be an abuse of the process of the court.

19. In the result, the present application is allowed



and the entire proceeding arising out of Islampur P.S. Case No. 205 of 2018, as also the impugned order dated 17.01.2019 whereby the cognizance has been taken is hereby quashed, so far as the petitioners are concerned.

(Harish Kumar, J)

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