

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60739 of 2021

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

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1. Altamash, S/o Uttam Chandra, Resident of 15, Eden House, Vyas Colony, Ashiana Road, Block A, P.S.- Rajiv Nagar, Patna
 2. Md. Tanveer Usmani, S/o Md. Abdus Sattar, R/o village- Bobara, Post-Kurhaila Bobara, Kurhaila, P.S. and District- Katihar

... .. 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
For the Opposite Party/s	:	Mr M. K. Nirala, APP
For the Informant	:	Mr. Sanjay Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 07-07-2022 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. Sanjeev Kumar Mishra, learned counsel for the petitioners, Mr. Sanjay Kumar Mishra, learned counsel for the informant and Mr. M. K. Nirala, learned APP for the State.

3. By filing the present application, the petitioners are invoking the inherent jurisdiction of this Court seeking quashing of the F.I.R., bearing Shastri Nagar P.S. Case No. 320 of 2020,



registered for the offences punishable under Sections 498A/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

4. It is submitted that 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 interlocutory application no. 01 of 2022.

5. The short facts, which led to the filing of the present application is that the marriage of the opposite party no. 2 was solemnized with petitioner no.1 on 03.03.2020 and thereafter she was allegedly subjected to torture at the hands of the family members of the petitioners for demand of dowry, which resulted into institution of F.I.R., in question, impugned herein.

6. The petitioners being aggrieved by the institution of the F.I.R. filed the present quashing application, inter alia, on the ground that during the pendency of the application both the parties have amicably settled the dispute on 06.02.2021 and it is also submitted that both the parties have received their belongings from each other.

7. Learned counsel appearing on behalf of the



petitioners submits that in terms of the settlement, petitioner no.1 had agreed to pay the opposite party no.2 a sum of Rs. 5,00,000/- after receipt of which the informant would take steps for dissolution of marriage and now the marriage has already dissolved vide order dated 09.08.2021 passed in Case No. 2977. The copy of which has been brought on record by way of Annexure-3 to the interlocutory application. It is next submitted that now the 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.

8. Learned counsel for 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 been finally settled and the opposite party no.2 does not want to proceed any further in the matter.

9. It is needless to say so far the offence under Section 498A of the Indian Penal Code is concerned, the same is 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.”

10. 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.

11. 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.”

12. 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.

13. 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.

14. In view of the aforesaid facts and circumstances, it would be evident that the parties have decided to settle all the controversies amicably and to the said effect an interlocutory application has been filed bringing on record the subsequent events, showing amicable settlement between the parties, which has not been controverted by the opposite party. Consequently, and keeping in mind the decision of the Hon'ble Supreme Court, hereinabove, this Court is of the view that allowing the further proceedings to continue in the Court below in case of the petitioners may lead to unnecessary harassment, agony and pain



not only to the accused, but also to the opposite party no.2.

15. For the reasons stated above, allowing the prosecution to continue as against the petitioners would be an abuse of the process of the Court.

16. In the result, 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.

(Harish Kumar, J)

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