

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52738 of 2019

Arising Out of PS. Case No.-303 Year-2018 Thana- KOTWALI District- Patna

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1. Pratima Sinha, Wife of Sri Subodh Kumar Sinha
 2. Subodh Kumar Sinha, Son of Late Babu Banshi Gopal Lal
 3. Abhishek Sinha, Son of Sri Subodh Kumar Sinha

All are Residents of Shivalik, Pitambra Palace, Sainik Colony, Dumardaga,
Police Station- Khelgaon, District- Ranchi, Pin Code 835217, Jharkhand.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Radhika Sinha, Wife of Sri Saurabh Sinha, Resident of Shivalik, Pitambra Palace, Sainik Colony, Dumardaga, Police Station- Khelgaon, District- Ranchi, Pin Code- 835217 (Jharkhand) Presently residing at Flat No. 401, Yogendra Parvati Enclave, 36 Kidwaipuri, Police Station- Kotwali, District- Patna, Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 59402 of 2019

Arising Out of PS. Case No.-303 Year-2018 Thana- KOTWALI District- Patna

Saurabh Sinha, Son of Sri Subodh Kumar Sinha, Resident of Shivalik, Pitambra Palace, Sainik Colony, Dumardaga, P.S.- Khelgaon, District- Ranchi, Pin Code- 835217, Jharkhand, At present residing at Flat No. J1143, Marvell Apoorva Apartment, 4/12 Kalasthaman Koil Street, Ramapuram, P.S.- Royal Nagar, District- Chennai (Tamil Nadu).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Radhika Sinha Wife of Sri Saurabh Sinha Resident of Shivalik, Pitambra Palace, Sainik Colony, Dumardaga, P.S.- Khelgaon, District- Ranchi, Pin Code- 835217 (Jharkhand), presently residing at Flant No. 401, Yogendra Parvati Enclace, 36 Kidwaipuri, P.S.- Kotwali, District- Patna, Bihar.

... .. Opposite Party/s

Appearance :

(In both the cases)

For the Petitioner/s	:	Mr.Saket Gupta, Advocate
For the State	:	Mr.Jharkhandi Upadhyay, APP
For the O.P.No.2	:	Mr. Mohit Srivastava, Advocate



CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
Date : 07-07-2022

Since both the petitions arise out from a common impugned order dated 03.07.2019, as such, they have been heard together and are being disposed of by this common judgment.

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

Both the petitions have been filed by the petitioners, for quashing the order dated 03.07.2019 passed in Kotwali P.S. Case No. 303 of 2018 (corresponding to G.R. No.3084 of 2018) by which discharge application filed by the petitioners has been dismissed by the learned Sub-divisional Judicial Magistrate, Patna. Later on, after compromise between the parties, further prayer for quashing the criminal prosecution has been made by filing a joint affidavit.

The prosecution case in brief is that due to non-fulfillment of demand of dowry, the informant was tortured and subjected to physical and mental harassment by the petitioners, leading to filing of an FIR bearing Kotwali P.S. Case No.303 of 2018 under Section 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 petitioners. Subsequently, the learned Chief Judicial Magistrate, Patna vide order dated 13.12.2018 took cognizance under Section 498A read with Section 34 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act and transferred the case to the learned Sub-Divisional Judicial Magistrate, Patna for trial. Thereafter, the petitioners have filed a discharge petition on 22.02.2019 before the Sub-Divisional Judicial Magistrate, Patna, which was dismissed vide the impugned order dated 03.07.2019, which is the subject matter of the present proceeding.

Pursuant to the earlier order dated 30.06.2022 of this Court, a supplementary affidavit with regard to present stage of the case has been filed on behalf of the petitioners today. It is stated therein that the case is presently pending before the court of learned Sub-Divisional Judicial Magistrate, Patna for framing of charge and the next date of hearing has been fixed for 12.07.2022.

A counter affidavit has been filed on behalf of opposite party no.2- Smt. Radhika Sinha wherein it has been stated in para 5 that the opposite party no.2 and petitioner -Sri Saurabh Sinha have mutually and amicably settled their dispute and decided to part ways under mutually agreed terms of compromise. In para 6, it has been stated that pursuant to the settlement of terms of



compromise, the opposite party no.2 and the petitioner Saurabh Sinha have filed a compromise petition before the learned Principal Judge, Family Court at Patna in Matrimonial Case No.1372 (M) of 2018 and have sought divorce on the basis of the terms of compromise. In para 7, it has been stated that in view of the compromise, a joint affidavit was also filed by opposite party no.2 and the petitioner- Saurabh Sinha in Cr. Misc. No.59402 of 2019 wherein both the parties have supported the averments of the compromise and have jointly sought the quashing of the entire criminal prosecution. In paragraphs 8 & 9, it has been stated that the opposite party no.2 wants to comply with the terms of the compromise arrived at between the husband and wife. On the basis of compromise arrived at between the spouses, the Opposite Party No. 02 does not want to pursue the criminal case against the petitioners and her husband namely Sri Saurabh Sinha. In paragraph 10, it has been stated that the entire criminal prosecution arising out of Kotwali P.S. Case No. 303 of 2018 (Corresponding General Register No. 3084 of 2018) may be quashed in light of the compromise arrived at between the Opposite Party No. 02 and her husband namely Sri Saurabh Sinha.

A joint affidavit on behalf of the petitioner and opposite party no.2 has also been filed in Cr. Misc. No.59402 of 2019



(Saurabh Sinha Vs. The State of Bihar and Anr.) wherein it has been stated that both the parties have been living separately for more than two years five months and all efforts of mediation and reconciliation have been tried but without any result. It has further been submitted to the effect that with the intervention of the well wishers and the family members of the parties, both the parties have mutually decided to put an end to all disputes arising due to discord in matrimonial relationship between the parties. In para 8, it has been mentioned that later on the parties have settled their dispute amicably and have decided to part ways on the following terms and conditions:-

- “i. That the Opposite Party No. 2 has agreed to withdraw and/or compound in a legal manner her litigation filed by way of FIR being Kotwali P.S. Case No. 303 of 2018, dated 17.05.2018 (General Register No. 3084 of 2018) against the petitioner (Saurabh Sinha), his parents (Subodh Kumar Sinha & Pratima Sinha) and brother (Abhishek Sinha) for the offence punishable under Sections 498A, read with 34 of the Indian Penal Code, 1860 and under Section 3/4 of the Dowry Prohibition Act, 1959.*
- ii. That the opposite party no. 2 will initiate necessary action on her part as may be required, for said withdrawal within a period of thirty days from the date of execution of this compromise deed.*
- iii. That both the parties (Petitioner and Opposite Party No. 02) shall not continue any of the subject-*



litigation against each other henceforth and will co-operate with each other in a legal manner so that the aforesaid pending subject-litigation can be withdrawn and/or disposed of.

iv. That both the parties (petitioner and opposite party no.2) shall not file any further appeal, review or revision etc. against any order of allowing withdrawal/non-prosecution passed by any Court of Law in the subject-litigation.

v. That the petitioner and opposite party no. 2 have agreed and given their consent that no party will pay or take any alimony from each other. That neither of the parties has to give and take anything from each other in any manner in respect of their present, past or future claims, whatsoever. Both parties have consented not to make any claim against the other in movable or immovable property of that other either at present or in future after obtaining the decree of divorce. They have also consented to not interfere in each others' future peaceful life.

vi. That there is no difference of opinion between the parties on the issue of dissolution of their marriage, nor with regard to any other subject matter arising out of the present wedlock. Both the parties have voluntarily consented for dissolution of their marriage by way of a mutual joint petition/compromise petition. The consent of both the parties is free and has not been obtained on the basis of fraud or inducement or threat or pressure. Both have given their consent in healthy state of mind keeping in mind their future life.



vii. That both the parties have mutually agreed that they would not make any claim arising out of their wedlock in present and future from each other.

Ultimately, in para 9, it has been deposed that both the parties have filed a compromise petition on the basis of compromise arrived at between the parties incorporating all the aforesaid terms of compromise in Matrimonial Suit No. 1372(M) of 2018 pending in the Court of learned Principal Judge, Family Court, Patna and sought a decree of divorce on the basis of the compromise petition. In para 12, it has been mentioned that both the parties are willing to come out of the criminal proceedings which have mainly arisen because of matrimonial discord between Petitioner and Opposite Party No. 2. In para 13, it has been mentioned that the parties are litigating because of matrimonial discord, a quashment on the basis of compromise is required to be done with an intention to secure the ends of justice and to prevent the abuse of the process of the court.

The learned counsel for the petitioners reiterated the facts of the joint affidavit during argument in support of his prayer for quashing the entire criminal proceeding. Though the learned counsel appearing on behalf of the opposite party no. 2 has some reservations as he submitted that the clothes of the opposite party no.2 are still lying with the petitioners and the same have not been



returned and should have been returned before the final orders are passed in this case, but I do not think the claim of opposite party no. 2 is now sustainable in the light of para (v) and (vii) of the joint affidavit filed by the parties.

The learned APP appearing on behalf of the State has no objection for quashing the FIR as the matter has been compromised between the husband and wife.

Having regard to the aforementioned facts and circumstances and considering the compromise so entered into between the parties wherein the opposite party no.2- Smt. Radhika Sinha and petitioner -Sri Saurabh Sinha have mutually and amicably settled their dispute and decided to part ways under a set of terms of compromise as mentioned above and also considering the fact that both the parties are living separately for more than two years five months and all efforts of at mediation and reconciliation have been tried and all such efforts failed, I am of the view that no useful purpose would be served in continuing with the criminal case before the trial court.

Accordingly, this Court, to secure the ends of justice and to prevent the abuse of the process of the court, in exercise of its inherent power under Section 482 Cr.P.C. allows the present applications and quashes the criminal case arising out of Kotwali



P.S. Case No. 303 of 2018 on the basis of compromise so entered
into between the parties.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	16.07.2022
Transmission Date	16.07.2022

