

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76050 of 2019

Arising Out of PS. Case No.-173 Year-2014 Thana- KAJI MUHAMMADPUR District-
Muzaffarpur

=====

Madhuri Singh, Wife of Sri Amresh Kumar Singh, Resident of Mohalla- K.P. Auto Mobile Private Ltd., 5 Industrial Area, Kokar, Police Station- Sadar, District- and Town- Ranchi-834001 (Jharkhand), Presently residing at 51, Neel Kamal Engineers, Industrial Area, Kokar, Police Station- Sadar, District- and Town- Ranchi-8344001 (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chinmay @ Sushri Chinmay, Wife of Dr. Rakesh Kumar and Daughter of Sri Gopesh Nandan, Resident of Sitamarhi, Near Bus Stand, Babhangama, Police Station- Babhangama, District- Sitamarhi, Previously residing at Mohalla- Damuchak Road, Police Station- Kaji Mohammadpur, District and Town- Muzaffarpur and presently residing at 51, Neel Kamal Engineering, Industrial Area, Kokar, Police Station- Sadar, District and Town- Ranchi-834001.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 71588 of 2019

Arising Out of PS. Case No.-173 Year-2014 Thana- KAJI MUHAMMADPUR District-
Muzaffarpur

- =====
1. Rakesh Kumar @ Rakesh Kumar Singh, Son of Sri Amresh Kumar Singh, C/o K.P. Automobiles Pvt. Ltd. Resident of 51, Neel Kamal Engineering, Industrial Area, Kokar, Police Station- Sadar, District and Town- Ranchi-834011 (Jharkhand).
 2. Amresh Kumar Singh, Son of Late Maheshwari Prasad Singh, Resident of 51, Neel Kamal Engineering, Industrial Area, Kokar, Police Station- Sadar, District and Town- Ranchi-834011 (Jharkhand).
 3. Avinish Kumar @ Mukul @ Avnish Singh, Son of Sri Amresh Kumar Singh, Resident of 51, Neel Kamal Engineering, Industrial Area, Kokar, Police Station- Sadar, District and Town- Ranchi-834011 (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chinmay @ Sushri Chinmay, W/o Dr. Rakesh Kumar and Daughter of Sri Gopesh Nandan, Resident of Sitamarhi, Near Bus Stand, Babhangama, Police Station- Babhangama, District- Sitamarhi, previously residing at Mohalla- Damuchak Road, Police Station- Kaji Mohammadpur, District and Town- Muzaffarpur and presently residing at 51, Neel Kamal Engineering



Industrial Area, Kokar, Police Station- Sadar, District and town- Ranchi-834001.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 76050 of 2019)

For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Murari Prasad Sinha, Advocate

For the State : Mr. Navin Kumar Pandey, APP

For the Opposite party no.2: Mr. Amrit Abhijat, Advocate

(In CRIMINAL MISCELLANEOUS No. 71588 of 2019)

For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Murari Prasad Sinha, Advocate

For the State : Mr. Raj Kishore Singh, APP

For the Opposite party no.2: Mr. Amrit Abhijat, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 22-09-2022

Since both the applications arise out of Kaji Mohammadpur P.S. Case No. 173 of 2014, as such, they have been taken up together and are being disposed of by this common judgment.

Heard learned counsel 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 Kaji Mohammadpur P.S. Case No. 173 of 2014 (G.R. No.2535 of 2014) arising out of Complaint Case No. 803 of 2014, registered for the offences punishable under Sections 498 A and 420 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 23.09.2019.



The prosecution case in brief is that marriage of the opposite party no. 2 was solemnized with the petitioner Rakesh Kumar @ Rakesh Kumar Singh but she was subjected to torture by the accused persons, the petitioners herein due to non-fulfillment of demand of dowry, leading to filing of the FIR bearing Kaji Mohammadpur P.S. Case No.173 of 2014 under Sections 498 (A) and 420 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act.

Learned counsel for the petitioners further submits that the petitioner Dr. Rakesh Kumar Singh (husband of the informant) filed O.S. (MTS) Suit No. 134 of 2017 in the Court of Principal Judge, Family Court, Ranchi under Section 13-B of the Hindu Marriage Act, 1955 for dissolution of their marriage by decree of divorce with mutual consent. Thereafter, the Principal Judge, Family Court, Ranchi granted decree of divorce with mutual consent for dissolving their marriage vide judgment and order dated 17.08.2017.

Learned counsel further submits that the informant/opposite party no.2 filed a petition for compromise dated 23.09.2019 in the Court of learned Additional Chief Judicial Magistrate, 1st, (East) Muzaffarpur and the informant was personally present in the Court and admitted that she has



entered into compromise with the petitioners which is also evident from the bail order dated 23.09.2019 passed Kaji Mohammad P.S. Case No. 173 of 2014 (G.R. No. 2535 of 2014) by the learned Additional Chief Judicial Magistrate, 1st (East), Muzaffarpur.

Learned counsel for the petitioners further submits that now full and final settlement has been made between the petitioners and the opposite party no.2 and no further dispute remains between the parties.

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. He further submits that a counter affidavit admitting the factum of settlement has been filed by the opposite party no.2 which is on record.

The learned APP appearing on behalf of the State has no objection for quashing the FIR 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 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 petitioners, but also to the opposite party no.2 and would be tantamount to an abuse of the process of the Court.

Therefore, the present petitions are allowed and the entire proceeding arising out of Kaji Mohammadpur P.S. Case No. 173 of 2014 is hereby quashed qua the petitioners and the petitions stand disposed of.

(Arun Kumar Jha, J)

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AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	26.09.2022
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