

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20139 of 2017

Arising Out of PS. Case No.-1707 Year-2016 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Vijay Shankar Pathak, son of Late Pandit Paras Nath Pathak.
 2. Sandeep Pathak, son of Sri Vijay Shankar Pathak, both resident of A/64, Police Colony, Anisabad, P.S.- Gardanibagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Preeti Upadhyay @ Prity Chaturvedi wife of Dusyant Upadhyay, D/o Shambhu Nath Chaubey, at present resident of Ram Nath Apartment, Flat No. 402B, IAS Colony, Kidwaipuri, P.S.- Kotwali, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sourendra Pandey, Advocate
For the Opposite Party/s	:	Mr. Arun Kumar Pandey, A.P.P.
For the O.P. No.2	:	None.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 03-10-2023

Heard learned counsel for the petitioners and
learned A.P.P. for the State.

2. The case was taken up on 26.09.2023, on the said date no one appeared on behalf of the Opposite Party No.2. Thereafter, the case was taken up on 27.09.2023, again no one appeared on behalf of the Opposite Party No.2. Today, when the matter is taken up, again no one appears on behalf of the Opposite Party No.2.

3. The learned counsel for the petitioners submits



that the matrimonial dispute in between the husband and the wife has been compromised, thereafter, divorce by mutual consent has been obtained as would be evident from 'Annexure-2' to the supplementary affidavit, it is next submitted that the petitioners are maternal father-in-law and maternal uncle and have falsely been implicated in the case with general and omnibus allegation. It is next submitted that since the matter has been compromised and divorce has been obtained by mutual consent in between the Opposite Party No.2 and her husband, as such, it appears that the Opposite Party No.2 has lost interest in the case, thus, the learned counsel for the Opposite Party No.2 is not appearing. The learned counsel next submits that even from perusal of the allegation as alleged in the complaint petition instituted by the Opposite Party No.2, it would manifest that the allegations against the petitioners are general and omnibus in nature i.e. no specific allegation is alleged, it is also submitted that petitioner no.1 being the maternal grand-father of the husband of the Opposite Party No.2 and petitioner no.2 being maternal uncle of the husband of the Opposite Party No.2, are not even staying with the family of



the husband of the O.P. No.2. It is next submitted that whenever any dispute, more particularly, matrimonial dispute arises, the entire family members are implicated in a mechanical manner.

4. As submitted by the learned counsel for the petitioners that the case in between the Opposite Party No.2 and her husband has been compromised and divorce has been obtained by way of mutual consent as is evident from the order dated 06.09.2021 in Matrimonial Case No. 292 of 2018 (annexed with 'Supplementary Affidavit') passed by the learned Principal Judge, Family Court, Patna, as such, the continuation of the present proceedings against the petitioners is nothing but an abuse of the process of the Court.

5. The learned A.P.P. for the State is also not in a position to rebut the submissions of the learned counsel for the petitioners.

6. Considering the submissions made by the learned counsel for the petitioners, the order dated 23.01.2017 passed by the learned Sub-Divisional Judicial Magistrate, Patna in Complaint Case No. 1707(C) of 2016,



whereby cognizance of offences has been taken under Section 498A of the Indian Penal Code read with Section 4 of the Dowry Prohibition Act against the petitioners, is hereby quashed.

7. The supplementary affidavit filed on behalf of the petitioners is taken on record.

8. The quashing application is thus allowed.

(Satyavrat Verma, J)

Nilmani/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	04.10.2023
Transmission Date	N.A.

