

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52882 of 2015

Arising Out of PS. Case No.-607 Year-2011 Thana- ARARIA District- Araria

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1. Maulvi Shakib.
2. Sajid @ Md. Sajid Both Sons of Md. Fakruddin Resident of Village -
Madhopada P.S. - Araria Baigachhi District - Araria.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Nehanaz @ Kari S/o Md. Taiyab Resident of Village - Rampur Mohanpur,
Madhopada, P.S. - Araria, District - Araria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Advocate
For the Opposite Party/s : Mr. Gajendra Pd. Yadav, APP
For the informant : Mr. Shekhar Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 21-03-2023 Heard learned counsel for the petitioners, the State
and learned counsel for the informant.

The present petition has been preferred for quashing
of the order dated 05.01.2013 passed by learned S.D.J.M.,
Araria in Araria P.S. Case No.607 of 2011 whereby and
whereunder took cognizance under Sections 498(A) of the IPC
and Section 3/4 of the Dowry Prohibition Act.

The prosecution read as follows:

(i) the marriage of the informant was solemnized with
her co- villager Aziz @ Azzi according to muslim custom and
right on 7.7.11 in which all articles were given as gift. Later
they started demanding one lac rupees and a motor cycle, then a



Panchayat was held but matter could not materialize;

(ii) further, the Informant, her father and her uncle went to their house and said to keep her but all the named accused persons assaulted her for want of dowry. Accordingly, the case.

It has been submitted by the learned counsel for the petitioners that they are brother-in-law of the informant and had nothing to do with the allegations made in the FIR but only because they belong to the same family they have been dragged.

It is his further submission that Aziz @ Azzi @ Md. Aziz the husband of the informant /opposite party no.2 preferred Cr. Misc. No.17073 of 2015 challenging the cognizance order dated 07.09.2012 passed by the learned Chief Judicial Magistrate, Araria in connection with Araria P.S. Case No.607 of 2011 which was heard and allowed by a bench of this Court (Hon'ble Mr. Justice Aditya Kumar Trivedi as his lordship then was) vide an order dated 14.07.2015 and a copy of which has been provided to this Court.

A perusal of the order dated 14.07.2015 shows that the following facts have been incorporated to allow the petition:

*“Heard learned counsel for the
petitioner; learned Additional Public*



Prosecutor as well as learned counsel for the informant.

It has been submitted on behalf of respective parties that matter has amicably been sorted out amongst the parties and in pursuance thereof, compromise petition was filed before the learned lower court along with permission petition. (Annexure-2).

It being a dispute amongst spouses and on account thereof happens to be personal in nature through non-compoundable, satisfies the ingredients as laid down by the Apex Court in Shiji v. Radhika reported in (2011) 10 SCC 705 the order of cognizance dated 07.09.2012 passed by the learned Chief Judicial Magistrate, Araria in connection with Araria P.S. Case No.607 of 2011 is hereby quashed.

Petition is allowed.”

Learned counsel for the petitioners submit that they are on better footing being brothers-in-law of the informant.

By way of Annexure-2, learned counsel has drawn



attention of this Court to the compromise petition preferred by the informant as also her husband in which she narrated that she do not want to pursue the cases any further, with further prayer to close the same.

Learned counsel for the informant submits that after filing of the Vakalatnama he do not have any communication with the lady and in that backdrop he is unable to fully assist the Court.

Taking into account the submissions put forward by the parties concerned, the compromise petition which is part of the file as Annexure-2, as also this Court's order dated 14.07.2015, as narrated above, this Court is inclined to extend the same benefit to the petitioners herein which has been granted to the husband.

In the result, the order dated 05.01.2013 passed by learned S.D.J.M., Araria in Araria P.S. Case No.607 of 2011 under Sections 498(A) of the IPC and Section 3/4 of the Dowry Prohibition Act stands quashed.

The application under Section 482 of the Cr.P.C. stands allowed.

(Rajiv Roy, J)

Prakash Narayan /-

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