

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.34414 of 2019

Arising Out of PS. Case No.-10 Year-2015 Thana- MAHILA P.S. District- Bhagalpur

SANJIV KUMAR YADAV @ SANJEEV KUMAR S/o Bholu Prasad Yadav
R/o village- Simanpur More, P.S.- Pirpainty, District- Bhagalpur

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Mamta Devi D/o Sri Dev Saran Yadav, W/o Sri Sanjiv Kumar Yadav @
Sanjeev Kumar R/o village- Jagatpur, P.S.- Parbatta, District- Bhagalpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar, Advocate
For the Opposite Party/s : Mr.Umeshanand Pandit, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 04-05-2023 Heard learned counsel for the petitioner and learned
APP for the State.

This application has been filed for quashing of the order dated 11.05.2015 passed by learned Judicial Magistrate-1st, Naugachia by which learned Magistrate has taken cognizance against the petitioner for the offences under Sections 498A, 323, 504, 34 of the Indian Penal Code and 3/4 of the D.P. Act.

Learned counsel for the petitioner has relied upon Annexure-2 and has submitted that matter has been settled between the parties in Matrimonial Case No. 160 of 2014 in court of Mediation Centre, Civil Court, Sahebganj, Jharkhand. Pursuant to the settlement the petitioner had given a cheque of Rs. 3 Lakhs to opposite party no. 2 which was accepted by her. The Settlement deed reads as follow:-



“1. It is agreed that the Opposite Party namely Mamta Devi and Petitioner/complainant namely Sanjeev Kumar Yadav shall dissolve their marriage by decree of divorce by mutual consent without leveling allegations and counter-allegations against each other in accordance with law before the Court of competent jurisdiction.

2. It is agreed that the Petitioner/complainant namely Sanjeev Kumar Yadav paid Rs.3,00,000/- (Rupees Three Lakh Only) by way of multi city cheque bearing no. 736048 dated 01/04/2015 of State Bank of India, Sahibganj Branch issued by his father Sri Bhola Prasad Yadav, to the Opposite Party namely Mamta Devi @ Mamta Kumari, which shall include all claims of the Opposite Party namely Mamta Devi past, present and future arising out of the marriage with complainant namely Sanjeev Kumar Yadav which shall include permanent alimony, maintenance, Istridhan and all other miscellaneous expenses.

3. It is agreed that the complainant Sanjev Kumar Yadav shall withdraw their case pending before the any Court in Sahibganj, and if any case between this parties is pending before any Court shall be withdrawn by the parties concern.

4. That, nothing shall remain due between the parties after the compliance of the terms of the present settlement and that none of the parties shall file any civil or criminal proceedings against each other in future and that if any other case/petition/complaint etc. between the parties is pending in any Court or Authority,



the same shall be withdrawn/got disposed of by the respective party.

5. That, the parties have settled their dispute out of their own free will, without any fear, force, coercion or undue influence from any side.

6. It is agreed that the both the parties shall cooperate with each other for the execution of the settlement, with the assistance of their respective counsels.”

In view of the above, this case is nothing but abuse of process of the Court. The petitioner is on Bail and the complainant is not appearing since 2015.

Accordingly, this application is disposed of with the direction to the learned Judicial Magistrate-1st, Naugachia to pass an order in accordance with law for dropping the proceeding against the petitioner who is already on bail, in view of non-appearance of the petitioner. The order must be passed within 15 days from communication of this order.

Let a copy of this order be communicated to the District Judge, Bhagalpur for its compliance through FAX or e-mail forthwith.

(Sandeep Kumar, J)

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