

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13027 of 2024

Arising Out of PS. Case No.-533 Year-2010 Thana- KHAGARIA District- Khagaria

1. Amresh Kumar S/O Abhinandan Kumar Abinashi @ Ambika Singh R/O Village- Ganaili, Harpur, Tarapur, P.S- Munger, Distt.- Munger.
2. Atma Devi W/O Abhinandan Kumar Abinashi @ Ambika Singh R/O Village- Ganaili, Harpur, Tarapur, P.S- Munger, Distt.- Munger.
3. Abhinandan Kumar Abinashi @ Ambika Singh S/O Bishwanath Singh R/O Village- Ganaili, Harpur, Tarapur, P.S- Munger, Distt.- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manju Kumari W/O Amresh Kumar, D/O Upendra Narayan Singh R/O North Hajipur, Court Road, Beside Workshop, P.S- Khagaria (Chitragupt Nagar), District- Khagaria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Radha Mohan Singh, Advocate
For the Opposite Party/s : Mr. Uday Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 07-05-2024 1. Heard learned counsel for the petitioners and
learned counsel for the State of Bihar.

2. The petitioners have filed the instant application for
the following relief(s) :-

*“1. That the present quashing application is being
filed for quashing of Khagaria (Chitragupt Nagar)
P.S. Case No. 533 of 2010 and its entire proceeding
registered for the offences punishable under section
498(A) of the Indian Penal Code and Section 3/4 of
the Dowry Prohibition Act.”*

3. Learned counsel for the petitioners submits that the
petitioners having been made accused in an FIR being Khagaria



(Chitragupt Nagar) P.S Case no. 533 of 2010 registered under section 498A of the Indian Penal Code and sections 3/4 of the Dowry Prohibition Act lodged by the opposite party no.2. He moved various applications and the matter was finally settled amicably between the parties which would be evident from perusal of the order dated 23.11.2016 (Annexure-1) passed in Cr. Misc. no. 39736 of 2012. The order came to be modified subsequently by order dated 12.4.2017 wherein this Court observed as follows :-

“However, it is made clear that as both parties have already entered into compromise, criminal court will take cognizance of the matter and will pass necessary orders.”

4. It is further submitted that as the opposite parties were not taking interest in the criminal case in the learned trial Court, the petitioners herein filed Cr. Misc. No. 28902 of 2017 praying for modification of the order dated 12.4.2017 (Annexure 1) passed in Cr. Misc. no. 39736 of 2012. This Court after hearing the parties was pleased to dispose of the modification application in the following terms :-

“Heard the parties.

This application has been filed for modification of the order dated 12.04.2017 passed



in Criminal Miscellaneous No.39736 of 2012.

It has been pointed out that the parties have obtained the degree of divorce, but the opposite party no.1 is not taking interest in criminal case though this Court has observed that the Court below will take cognizance about the settlement of dispute between the parties and pass necessary order.

Let the Court below proceed with the matter and pass appropriate order. If the opposite party no.1 does not appear, in such circumstance, the Court below will record the same and take final decision.

Accordingly, this modification application is disposed of.”

5. Learned counsel for the petitioners submits that the matter having been settled between the parties, as would be evident from the different orders, referred to and quoted herein above, the petitioners filed an application (Annexure 4) under section 239 of the Cr.P.C on 15.4.2019 before the learned Sub-Divisional Judicial Magistrate, Khagaria, however inspite of the application remaining pending in the learned trial Court and no order having been passed, the petitioners have been forced to file the instant application on 16.2.2024.

6. Heard learned APP appearing for the State.

7. Having heard learned counsel for the parties and



having perused the material on record, no notice is being issued to the opposite party no.2 in view of the order that this Court proposes to pass.

8. Having heard learned counsel for the parties and having perused the material on record, this application stands disposed of with a direction to the learned Sub-Divisional Judicial Magistrate, Khagaria, where the petition filed under section 239 of the Cr.P.C by the petitioners is pending that in case the said petition is still pending and has not already been disposed of, the same shall be disposed of within a period of four months of the receipt/production of a copy of this order. It goes without saying that before passing any orders on the said application, the informant of the FIR being Khagaria P.S Case no. 533 of 2010 shall be heard.

9. It may be stated here that the Court has not gone into the merits of the case of the petitioners and the application for discharge shall be heard and disposed of by the learned trial Court within the abovementioned period on it's own merits after hearing all the parties.

(Partha Sarthy, J)

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