

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17588 of 2020

Arising Out of PS. Case No.-1123 Year-2019 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. SOMESH SHARMA @ SOMESH @ SONU Son of Late Dinesh Sharma Resident of Village- Dhadhiya, Ramkrishnapur, P.O.- Chhatauna, P.S.- Muffasil, District- Samastipur.
 2. Ashish Sharma @ Ashish Kumar @ Pintu Son of Late Dinesh Sharma Resident of Village- Dhadhiya, Ramkrishnapur, P.O.- Chhatauna, P.S.- Muffasil, District- Samastipur.
 3. Usha Devi Wife of Late Dinesh Sharma Resident of Village- Dhadhiya, Ramkrishnapur, P.O.- Chhatauna, P.S.- Muffasil, District- Samastipur.
 4. Puja Devi @ Puja Sharma Wife of Ashish Sharma @ Ashish Kumar @ Pintu Resident of Village- Dhadhiya, Ramkrishnapur, P.O.- Chhatauna, P.S.- Muffasil, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Puja Kumari W/o Somesh Sharma @ Somesh @ Sonu R/o Village- Chaksalem, P.S.- Patori, District- Samastipur, D/o Ashok Kumar Thakur, presently resided in Village- Musapur, P.S.- Muffasil, District- Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Anand
For the Opposite Party/s : Mr.Arun Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 28-11-2024

Heard learned counsel for the petitioner, learned counsel for the Opposite Party No. 2 and learned A.P.P. for the State.

2. This is an application for quashing of the order dated 22.10.2019 passed by S.D.J.M. Samastipur in Trial No. 3531/2019, arising out of C.R. Case No. 1123/2019 whereby and whereunder the court below was pleased to take cognizance



against the petitioners under Sections 498 (A)/34 of the IPC and Section 4 of the Dowry & Prohibition Act.

3. The prosecution case in brief is that complainant Puja Kumari filed a complaint before the S.D.J.M. Samastipur on 21.06.2019 and it is stated that complainant was married with the petitioner no. 1, Somesh Sharma , under Hindu ritual & custom on 26.11.2017. It is further alleged that petitioners and other started demanding a four wheeler vehicle and due to non-fulfillment of demand of dowry, the complainant was being harassed. It is further alleged that husband transferred 10,000/- rupees in the account of the complainant for abortion but lastly the female child was born on 09.02.2019. It is further alleged that on 15.06.2019, complainant alongwith her father and maternal uncle went to her sasural but the mother and elder brother of the complainant's husband threatened her and asked them to fix an amount of Rs. 20 lakhs in the name of newly born child then only the complainant will be allowed to enter in the matrimonial house. Subsequently, Sanjiv Kumar and Rani Devi (mother) of the complainant were examined as the witnesses and the cognizance was taken by learned S.D.J.M. Samastipur on 22.10.2019 on basis of S.A. of complainant and witnesses were examined on basis of complainant under Sections 498



(A)/34 of the IPC & 4 of the Dowry Prohibition Act, which is the subject matter of the present proceeding.

4. Learned counsel for the petitioners submits that during the pendency of the present case, both parties are living happily at their working place and leading their conjugal life and have filed joint compromise petition.

5. Learned counsel for the opposite party no. 2 does not oppose the submission 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.

6. The learned APP appearing on behalf of the State has no objection for quashing the cognizance order as the matter has been amicably settled after compromise between the husband and wife.

7. Learned counsel for the petitioners, learned counsel for opposite party no. 2 and the learned APP for the State jointly submit that in the changed circumstances, the continuance of the criminal proceeding would be abuse of the process of the Court. Since the offence under Section 498A IPC is not compoundable, the trial court is helpless to close the proceeding.

8. Perused the records.



9. 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.

10. 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 court 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.”

11. 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.



12. 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 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.”

13. 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.

14. 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), Jitendra Rahuwanshi (supra) and M.A. Arshad and Ors. Vs. The State of Bihar and Anr. reported in 2017 SCC Online Pat 2779*** , 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.

15. Having regard to the aforesaid facts and circumstances and also to the fact that the parties have resolved their dispute amicably and has brought on record the subsequent events by filing affidavit, showing amicable settlement between the parties and 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.



16. Therefore, in the light of joint compromise petition filed on behalf of the parties, the present application is allowed and order taking cognizance dated 22.10.2019 passed by learned S.D.J.M., Samastipur in Trial No. 3531/2019, arising out of C.R. Case No. 1123/2019 is hereby quashed, so far as petitioners are concerned.

(Alok Kumar Pandey, J)

vashudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.11.2024
Transmission Date	NA

