

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20348 of 2022

Arising Out of PS. Case No.-740 Year-2016 Thana- KHAGARIA COMPALINT CASE
District- Khagaria

-
1. PARVATI DEVI W/o Dr. Nand Kishor Singh R/o Sahjanand Nagar, P.S.- Begusarai Town, District- Begusarai.
 2. DR NAND KISHOR SINGH S/o- LATE SRI RAM SINGH R/o- Sahjanand Nagar, P.S.- Begusarai Town, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Minu Kumari W/o Ashwani Kumar Residing at Hajipur, Post Office Road, Ward No.-19, P.S.- and District- Khagaria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Shubhesh Pandey
For the Opposite Party/s	:	Mr. M.K. Khare
For the Informant	:	Mr. Jai Kishor Podder

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 12-12-2024

Heard learned counsel for the petitioners, 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 14.10.2019 passed by learned S.D.J.M. Khagaria in Complaint Case No. 740C/2016 whereby and whereunder the petitioners being father-in-law and mother-in-law of the complainant have been directed to be summoned to face trial for the offences punishable under Sections 498 (A) of the IPC and 3/4 of the D.P. Act.

3. The prosecution case in brief is that the marriage of Complainant/Opposite Party No. 2 was solemnized with the



son of the petitioners on 13.06.2012. It is alleged that Rs. 10,000,00/- was being demanded for vehicle and Complainant/Opposite Party no. 2 was subjected to cruelty. In the meanwhile, she became pregnant of two months and when she stated medical check up by doctor it is alleged that husband of the complainant/son of the petitioners gave her some medicine as a result of which her pregnancy got terminated. It is further alleged that it was told to complainant that her uterus has developed some infection and it requires operation. She was operated in Delhi but later on she was informed by the accused persons that her uterus has been removed and they will not keep her until she brings the amount. It is further alleged that petitioners and others demanded dowry, assaulted, threatened and ousted her from matrimonial home.

4. Learned counsel submits that initially cognizance has been taken against the son of the petitioners on 01.09.2018. Against the order of 01.09.2018, the complainant has filed revision and Revisional Court has passed the order by remanding the matter back to the concerned court for passing the order afresh. Thereafter concerned court, on same set of allegation and material available on record, has taken cognizance against the petitioners and other on 14.10.2019. He



further submits that both party have submitted joint affidavit and it has been stated in the joint affidavit that dispute has been amicably settled between parties and they have no grievances. In 13 (B) petition, in para 5, it is mentioned that as per negotiation, husband of the complainant/ son of the petitioners became ready to pay Rs. 35,000,00/- as full and final settlement to petitioner no.2 (Complainant) for lifetime and permanent alimony has been accepted by petitioner no. 2 (Complainant).

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 an abuse of the process of the Court. They submits that the offence under



Section 498A IPC is not compoundable, the trial court is helpless in closing the proceeding.

8. Perused the records.

9. So far as 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 Rahuvasshi (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 tantamount to an abuse of the process of the Court.

16. Therefore, in the light of joint affidavit filed on behalf of the parties, the present application is allowed and order taking cognizance dated 14.10.2019 passed by learned S.D.J.M. Khagaria is hereby quashed, so far as petitioners are concerned.

(Alok Kumar Pandey, J)

vashudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.12.2024
Transmission Date	NA

