

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27107 of 2016

Arising Out of PS. Case No.-23 Year-2015 Thana- MAHILA PS District- East Champaran

1. Nazma Khatoon Wife of Master Qutubuddin
2. Master Qutubuddin @ Md. Kuttubuddin Son of Late Fattedin Both 1 and 2 Residents of at Dhobia Patti, Purani Chowk, P.S. Gopalganj, District - Gopalganj.
3. Tabassum Praveen @ Kusum Praveen @ Chhoti Daughter of Master Qutubuddin, Wife of Afjal Ali Resident of At - Dhobia Patti, Purani Chowk, P.S. Gopalganj, District - Gopalganj, At present Resident of Village - Khawaspur, P.S. Basantpur, District - Siwan.
4. Shama Praveen @ Gudiya Daughter of Master Qutubuddin, Wife of Mahboob Alam Resident of at Dhobia Patti, Purani Chowk, P.S. Gopalganj, District - Gopalganj, At present resident of Village - Kateya, P.S. Kateya, District - Gopalganj.
5. Mobinul Haque @ Syed Mobinul Haque Son of Late Nizamuddin Resident of at - Friends Colony, P.S. Gopalganj, District - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Najda Khatoon Wife of Samiuddin, Daughter of Md. Halim Khan Resident of Village - Lodh Chhapra, P.S. Pipra, District - East Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Javed Aslam, Advocate
For the Opposite Party/s	:	Mr. Nityanand, APP
For the respondent no. 1	:	Ms. Kanika, Advocate
For the respondent no. 2	:	Mr. Farooq, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 02-04-2024

1. Heard learned counsel appearing on behalf of the parties.

2. The present application has been filed for quashing the order dated 26.06.2015 passed by learned



Chief Judicial Magistrate, Motihari, in connection with Motihari Mahila P.S. Case No. 23 of 2015, where cognizance was taken for the offences under sections 498A, 341, 323, 504, 506, 406, 34 of the Indian Penal Code.

3. Prosecution case in brief is that on 06.04.2015 at 6.00 P.M. Najda Khatoon lodged an information with Motihari Mahila Police Station, stating that on 01.11.2007, her marriage was solemnized with Md. Samiuddin as per Islam religion. At the time of marriage and Bidai, cash of Rs. 1,50,000/-, ornaments with rupees 70,000/- and other articles worth rupees 1,50,000/- was given. After marriage, she came her matrimonial house. She gave birth of two female children, namely, Mariyam Khatoon, aged about five years and Aisha Khatoon, aged about three years. After giving birth to second female child, accused persons including petitioners started threatening to the informant that they would solemnize marriage of her husband with



another lady. Her husband mother-in-law, father-in-law, two Nanads (sisters-in-law) and one Mobinul Haque under the conspiracy of each other, asked the informant to bring rupees Two Lacs from his father for the business of her husband and one motorcycle besides the furniture. On information, her mother sent one Almira to her matrimonial house and beg pardon for the rest amount. Thereafter her husband and family members of her husband started to torture her in different manner. They started to make a plan to burn her by poring acid. On 03.11.2014 her husband, mother-in-law and Nanad tried to kill her by pressing her neck. On raising alarm, people gathered and save her. On information, her brothers came to her matrimonial house. Her brothers gave an application to the Mahila Police Station, Gopalganj. The police came her matrimonial house and brought the accused persons to the police station. The police asked her husband to bring her to his house, otherwise he would be sent to jail. On 30.03.2015 her



husband came to her Maiké and assaulted her. He threatened to give divorce, if his demand could not be fulfilled.

4. It is submitted by learned counsel appearing for the petitioners that petitioners are in-laws of opposite party no. 2, against whom, the allegation of cruelty as alleged alongwith allegation of raising demand for dowry are appearing very much general and omnibus in nature. It is submitted that implication of petitioners appears only out of their relations. Learned counsel submitted that all petitioners being in-laws living separately with opposite party no. 2 and her husband, having no connection with their daily and domestic affairs. While concluding argument, it is submitted that the matter is ultimately compromised between the parties i.e. opposite party no. 2 with her husband and they are living happily together. Statement in this regard, averred specifically through counter affidavit dated 28.11.2023. While concluding the argument, it is submitted that as matter



now stands compromised between the parties, continuing with the process would only amount to abusing process of law. Learned counsel relied upon a legal report of ***Gian Singh Vs. State of Punjab***, reported in ***2012(10) SCC 303*** and also ***State of Haryana and Ors. Vs. Bhajan Lal and Ors.***, reported in ***1992 Supp (1) Supreme Court Cases 335***.

5. Learned APP duly assisted by learned counsel Ms. Kanika appearing on behalf of the opposite party no. 2, fairly submitted that matter now stands compromised between the opposite party no. 2 and her husband, namely, Md. Samiuddin, who is also one of the co-accused and they are living together.

6. It would be apposite to re-produce paragraph nos. 58 and 61 of the ***Gian Singh Vs. State of Punjab***, reported in ***2012(10) SCC 303***, which reads as under:

"58. *Where the High Court quashes a criminal proceeding having regard to the fact that the dispute*



between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrongdoing that seriously endangers and threatens the well-being of the society and it is not safe to leave the crime-doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without the permission of the court. In respect of serious offences like murder, rape, dacoity, etc., or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the



settlement between the offender and the victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard-and-fast category can be prescribed.

61. *The position that*



emerges from the above discussion can be summarised thus : the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz. : (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and the victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or



victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity, etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the



possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

7. It would further be apposite to re-produce para 102 of the ***State of Haryana and Ors. Vs. Bhajan Lal and Ors.,*** reported in ***1992 Supp (1)***



Supreme Court Cases 335, which reads as under:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first informant report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and



the evidence collected in support of the same do not disclose the commission of nay offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent persons can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

8. In view of aforesaid factual and legal submission, as a dispute between the opposite party no. 2 with her husband admittedly compromised, where they



are leading their conjugal life happily. Petitioners are in-
laws facing general and omnibus allegation and, in such
circumstances, continuing with the process would only
amount to abusing process of law, accordingly, by taking
guiding notes of **Gian Singh’s Case (supra)** and
Bhajan Lal’s Case (supra), impugned order of
cognizance dated 26.06.2015 passed by learned Chief
Judicial Magistrate, Motihari, is hereby set aside and
quashed *qua* petitioners with all its consequential
proceedings.

9. Let copy of this order be sent to the trial
court, without delay.

(Chandra Shekhar Jha, J)

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AFR/NAFR	AFR
CAV DATE	NA
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