

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41562 of 2023

Arising Out of PS. Case No.-60 Year-2022 Thana- COMPLAINT CASE District- Lakhisarai

1. MADHUMAY MADHUP S/O LATE MADHUSUDAN SHARMA
MADHUP R/O VILLAGE- MADHUKUNJ SRI KRISHNA NAGAR,
MAIN ROAD, PS BUDHA COLONY DISTRICT PATNA
2. MADHUP MADHUMITA D/O LATE MADHUSUDAN SHARMA
MADHUP, W/O SRI ABHISHEK SINGH R/O VILLAGE- MADHUKUNJ
SRI KRISHNA NAGAR, MAIN ROAD, PS. BUDHA COLONY, DIST.
PATNA
3. DR. RAJAN ANAND S/O SRI JAY SHANKAR RAY R/O VILLAGE-
SHERMARI BAZAAR, MOHESHRAM, PS. PIRPAINTI, DIST.
BHAGALPUR

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. ABHISHEK SINGH S/O ASHOK KUMAR R/O VILLAGE- NEEL
KOTHI, PURANI BAZAAR, PS. LAKHISARAI, DIST. LAKHISARAI

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 47046 of 2018

Arising Out of PS. Case No.-127 Year-2017 Thana- COMPLAINT CASE District- Lakhisarai

1. Madhumay Madhup and Anr S/o Late Madhusudan Sharma @ M.S.
Madhup, R/o Main Road Krishna Nagar, P.S.- Budha Colony, District-
Patna.
2. Madhup Madhumita, W/o Abhishek Singh, D/o Late Madhusudan Sharma
Madhup , Neel Kothi Purani Bazar, P.S.- Lakhisarai, Distt.- Lakhisarai , Pin-
81131, Both Residents of Madhukunj Sri Krishna Nagar, Main Road, P.S.-
Budha Colony, District- Patna.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Neha Bharti W/o Anuuj Singh, R/o Neel Kothi, Purani Bazar, P.S.-
Lakhisarai, District- Lakhisarai.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 41562 of 2023)

For the Petitioner/s : Mr.Ranjit Kumar



For the Opposite Party/s : Mr.Jharkhandi Upadhyay

(In CRIMINAL MISCELLANEOUS No. 47046 of 2018)

For the Petitioner/s : Mr.Ravi Prakash

For the Opposite Party/s : Mr.Sri Umanath Mishra

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL ORDER

8 12-09-2024 Heard the parties.

2. Re. - Cr. Misc. No. 41562 of 2023 :- This application has been filed under Section 482 of the Cr.P.C. for quashing the cognizance order dated 12.09.2022 passed by the learned Judicial Magistrate, 1st Class, Lakhisarai in Complaint Case No. 60C of 2022 for the offences alleged under Sections 341/323/504 and 34 of the Indian Penal Code.

3. Re. - Cr. Misc. No. 47046 of 2018 :- This application has been filed on behalf of the petitioners for quashing the order dated 28.06.2017 passed by the Judicial Magistrate-1, Lakhisarai in Complaint Case No. 127(C) of 2017 vide which cognizance has been taken under Sections 504, 352, 509 of the Indian Penal Code (IPC) against the Petitioner No. 1 under sections 504, 323, 352, 509 of the Indian Penal Code against the Petitioner No. 2.

4. These two applications for quashing emanate essentially from a matrimonial dispute between one Madhup Madhulika, and her husband Abhishek Singh, who are



arrayed as Petitioner No. 02 and Opposite Party No. 02 respectively in Cr. Misc. No. 41562 of 2023 and the Petitioner No. 01 therein is the brother-in-law of the O.P. No.02. The marital discord among the aforementioned parties has resulted in institution of multiple criminal cases against each other at the instance of the parties and their family members.

5. The Petitioner No. 02, Madhup Madhumita and her husband O.P. No. 02 - Abhishek Singh have now amicably settled their disputes and have moved a joint compromise petition before this Court. The relevant terms of the said compromise read as follows: -

- 1) That the instant joint Compromise Petition is being filed in compliance of the order of this Hon'ble Court and upon receiving the proposal so forwarded by the O.P. No. 2, namely Abhishek Singh and the agreed terms for the present Joint Compromise Petition are incorporated hereinafter in the following paragraphs.*
- 2) That the marriage between the Petitioner No. 2 and Opposite Party No. 2 was solemnized on 07-12-2014 in Budha Heritage, Patliputra, District Patna, by Hindu rites and ceremonies. The said marriage was consummated and thereafter the parties co-habited as husband and wife at the matrimonial home, Le, Neel Kothi, Purani Bazar, District - Lakhisarai, P.O.PS-Lakhisarai, Pin-811311.*
- 3) That after the marriage, the Petitioner No. 2 and O.P. No. 2 made several attempts to adjust with the sentiments of each other and to live as husband and wife but unfortunately, they could not convince each other as a result of which despite being married, they have been residing separately since 21 February 2017 and there*



has been no cohabitation between the parties to this agreement since then. The Petitioner No. 2 (Husband) namely Abhishek Singh is at present residing at his own residence at Neel Kothi, Purani Bazar, District Lakhisarai, P.O. + P.S.-Lakhisarai, Pin-811311 and O.P. No. 2 (wife) namely Madhup Madhumita at present is residing at her brother's residence (Maikey) at Madhukunj, Sri Krishna Nagar, Main Road, P.S. Buddha Colony District - Patna and Pin Code - 800001.

- 4) That the marriage of the Petitioner No. 2 and O.P. No. 2 are admitted and there is no chance of reconciliation because the marital relationship between them have broken irretrievably and is irreconcilable.*
- 5) That the efforts and attempts were made by the friends and relatives for reconciliation and for the resumption of marital relationship, but it could not be successful due to the temperamental differences which have rendered normal married life impractical and impossible. The marriage has broken down irretrievably.*
- 6) That the Petitioner No. 2, Madhup Madhumita, has filed following cases against O.P. No. 2. Abhishek Singh and his family members. The list of cases filed by Petitioner No. 2 against O.P. No. 2 is being stated hereunder –*
 - a) Domestic Violence Case No. 33 of 2017 (Madhup Madhumita Vs Abhishek Singh & Others), filed by the Petitioner No. 2, under section 12, 18, 19, 20, 22 & 23 of the Protection of Women from Domestic Violence Act. 2005, pending in the court of learned Judicial Magistrate 1st Class at Patna*
 - b) Complaint Case No. 1204 (c) of 2017 filed by Petitioner No. 2 for the offence's U/s 498-A and 406 I.P.C and Section 4 D.P. Act, Madhup Madhumita Vs Abhishek Singh & others, pending in the Court of learned S.D.J.M. Patna*
 - c) Buddha Colony P.S. Case No. 626 of 2022. registered under section 341, 323, 504, 506, 34 and 354 of The Indian Penal Code, 1860.*
- 7) That the O.P. No. 2. Abhishek Singh and his*



family members, Neha Singh (Wife of the brother of O.P. No. 2) and Suprita Singh (Mother of the O.P. No. 2) have filed following cases against Petitioner No. 2, Madhup Madhumita and her family and friends. The list of cases filed by O.P. No. 2 against Petitioner No. 2 is being stated hereunder –

- a) Complaint Case No. 127 (c) of 2017 (Neha Singh Vs. Madhup Madhumita & Others) filed by Neha Singh (Wife of younger brother of O.P. No. 2) in which cognizance has been U/s 504, 352, 509 of the Indian Penal Code against Madhumay Madhup (Brother of the Petitioner No. 2) and U/s 504, 323, 352 and 509 of Indian Penal Code against Madhup Madhumita (Petitioner No. 2), pending in the Court of learned Judicial Magistrate, 1st Class at Lakhisarai.*
- b) Domestic Violence Case No. 1 of 2017 filed by Suprita Singh (Mother of the O.P. No. 2) against Madhup Madhumita (Petitioner No. 2), under section 18 of The Protection of Women from Domestic Violence Act, 2005, pending in the Court of learned ACJM at Lakhisarai.*
- c) Complaint Case No. 60C of 2023 (Abhishek Singh Versus Madhup Madhumita and Others) filed by the Petitioner No. 2 in which cognizance has been taken under 341, 323, 504, 506 and 34 of the Indian Penal Code 1860. against Madhup Madhumita (Petitioner No. 2), Madhumay Madhup (Brother of the Petitioner No. 2) and Rajan Anand (Family Friend of the Petitioner No. 2). This case is pending in the Court of learned Judicial Magistrate Ist Class at Lakhisarai.*
- d) Matrimonial Divorce Case No. 1355 of 2018 (Abhishek Singh Versus Madhup Madhumita) filed by the O.P. No. 2, Under Section 13 (1) (ia) (ib) & (iii) of the Hindu Marriage Act, 1955, pending in the Family Court of learned Additional Principal Judge at Patna.*
- e) Guardianship Case No. 30 of 2018 (Abhishek Singh Versus Madhup*



Madhumita), filed by O.P. No. 2 under section 7 and 10 of the Guardianship and Wards Act 1890, pending in Family Court of learned Additional Principal Judge at Patna

- 8) That it is agreed between Petitioner No. 2 and O.P. No. 2 that they shall co-operate with each other in getting the above- mentioned criminal cases quashed against each other and their family members from this Hon'ble High Court or any other competent court.*
- 9) That the Petitioner No. 2 and O.P. No. 2 have mutually agreed that the Family Court of Learned Additional Principal Judge shall decide the Guardianship of the minor girl child namely Anika in Guardianship Case No. 30 of 2018 (Abhishek Singh Versus Madhup Madhumita), and the final order / judgement shall be binding upon both the Petitioner No. 02 and O.P. No. 2.*
- 10) That the O.P. No. 2, Abhishek Singh, has agreed to make payment of maintenance for his daughter namely Anika as per the living standard so maintained by him in ordinary course of life and for the said purpose quantum of maintenance for the girl child shall be left to be decided directed by the wisdom of the Hon'ble Patna High Court or the Family Court of Learned Additional Principal Judge at Patna.*

6. From the aforequoted relevant clauses of the compromise petition moved jointly by the Petitioner No. 2 and O.P. No. 2, both the parties have mutually and amicably agreed to settle their disputes which had culminated in a number of criminal cases as quoted above.

7. The parties have mutually decided and agreed that the Family Court of Additional Principal Judge shall decide the Guardianship of the single minor girl child namely Anika



in Guardianship Case No. 30 of 2018 (titled as Abhishek Singh Versus Madhup Madhumita), Further the parties have also decided that the quantum of interim maintenance can be decided by this Court or by the Family Court. They have decided that the marriage between the parties be dissolved through mutual consent. Thus, the parties have agreed mutually to file an application for divorce by mutual consent in the Matrimonial Case No. 1355 of 2018 pending in the Court of Additional Principal Judge, Family Court, Patna.

8. I have considered the joint compromise petition along with supporting affidavit as well as the submissions of both the sides and the learned Additional Public Prosecutor.

9. The Constitution Bench of the Hon'ble Supreme Court in the case of ***Shilpa Sailesh vs. Varun Sreenivasan*** reported in **2023 SCC OnLine SC 544** has held as under:-

27. The legislature and the courts treat matrimonial litigations as a special, if not a unique, category. Public policy underlying the legislations dealing with family and matrimonial matters is to encourage mutual settlement, as is clearly stated in Section 89 of the CPC, Section 23(2) of the Hindu Marriage Act, and Section 9 of the Family Courts Act, 1984. Given that there are multiple legislations governing different aspects, even if the cause of dispute is identical or similar, most matrimonial disputes lead to a miscellany of cases including criminal cases, at times genuine, and on other occasions initiated because of indignation, hurt, anger or even misguided advice to teach a lesson. The multiplicity of litigations can restrict and block solutions, as a settlement has to be holistic and comprehensive, given that the objective and purpose is to enable the parties to cohabit and live



together, or if they decide to part ways, to have a new beginning and settle down to live peacefully. Therefore, in **B.S. Joshi v. State of Haryana**, this Court, notwithstanding that Section 320 of the Cr. P.C. does not permit compounding of an offence under Section 498A of the I.P.C., has held that the High Court, exercising the power under Section 482 of the Cr. P.C., may quash prosecutions even in non-compoundable offences when the ends of justice so require. This view has been affirmed by the three judges' bench in **Gian Singh v. State of Punjab** and reiterated by another three judges' bench in **Jitendra Raghuvanshi v. Babita Raghuvanshi**. The reason is that the courts must not encourage matrimonial litigation, and prolongation of such litigation is detrimental to both the parties who lose their young age in chasing multiple litigations. Thus, adopting a hyper-technical view can be counter-productive as pendency itself causes pain, suffering and harassment and, consequently, it is the duty of the court to ensure that matrimonial matters are amicably resolved, thereby bringing the agony, affliction, and torment to an end. In this regard, the courts only have to enquire and ensure that the settlement between the parties is achieved without pressure, force, coercion, fraud, misrepresentation, or undue influence, and that the consent is indeed sought by free will and choice, and the autonomy of the parties is not compromised. The latter two decisions in **Gian Singh (supra)** and **Jitendra Raghuvanshi (supra)** observe that the inherent power on the High Court under Section 482 of the Cr. P.C. is wide and can be used/wielded to quash criminal proceedings to secure the ends of justice and prevent abuse of the process of the court, albeit it has to be exercised sparingly, carefully, and with caution. This Court, in **State of Madhya Pradesh v. Laxmi Narayan**, has set out guidelines as to when the High Court may exercise jurisdiction under the inherent powers conferred under Section 482 of the Cr. P.C. for quashing non-compoundable offences in terms of Section 320 of the Cr. P.C. In view of the above legal position and discussion, this Court, on the basis of settlement between the parties, while passing a decree of divorce by mutual consent, can set aside and quash other proceedings and orders, including criminal cases and First Information Report(s), provided the conditions, as specified in the aforementioned judgments, are satisfied.



10. In the case of *Rangappa Javoor vs State of Karnataka and Another 2023 SCC OnLine SC 1736*, the Hon'ble Supreme Court has held as under

8. It is apparent that the parties have resolved and settled their disputes. In the facts of the case, we do not feel that any useful purpose would be served by continuation of the prosecution. The appellant - Rangappa Javoor, who is an officer in the Border Security Force and as per the job requirement, has to serve in different parts of the country, would be put to harassment. This court has held that in cases of offences relating to matrimonial disputes, if the Court is satisfied that the parties have genuinely settled the disputes amicably, then for the purpose of securing ends of justice, criminal proceedings inter-se parties can be quashed by exercising the powers under Article 142 of the Constitution of India or even under Section 482 of Criminal Procedure Code, 1973.

11. The Hon'ble Supreme Court in the case of *Ramgopal v. The State of M.P., 2021 SCC OnLine SC 834*, has reiterated the guidelines regarding quashing of criminal proceedings in view of compromise. Following has been observed in paragraph 18-19: —

“18. It is now a well crystalized axiom that plenary jurisdiction of this Court to impart complete justice under Article 142 cannot ipso facto be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sub-lime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided



by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercise carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations."

12. Further placing reliance on ***B.S. Joshi v. State of Haryana, (2003) 4 SCC 675*** ; and ***K. Srinivas Rao v. D.A Deepa., (2013) 5 SCC 226***, it is settled position of law that the inherent powers under section 482 of the Code are required to be exercised to secure the ends of justice or to prevent abuse of the process of any court and this Court can quash non-compoundable offences after considering the nature of the offence and the amicable settlement between the concerned parties. The Hon'ble Supreme Court has repeatedly held that the cases arising out of matrimonial differences should be put to a quietus if the parties have reached an amicable settlement.

13. It is apparent that the nucleus of the entire dispute has been the marital discord between the parties which had resulted in institution of multiple cases by the parties or their family members against each other and their family members. Therefore, the multiple cases are squarely an outcome of matrimonial dispute between the parties. Now, since both the parties have amicably decided to settle all their



disputes and to have a new beginning to live peacefully therefore no fruitful purpose would be served in allowing the criminal cases to linger. Prolongation of such cases would be detrimental for both the parties and their family members. Therefore, having regard to the law laid down by the Hon'ble Supreme Court in ***Rangappa Javoor (Supra)*** and ***Jasmair Singh v. State of Haryana, (2022) 9 SCC 73*** in respect of quashing of criminal proceedings on the basis of compromise entered into between the parties and considering the aforesaid overall facts and circumstances of the present case, submissions made by counsel for both the parties and upon the perusal of material on record, it appears that during pendency of the present application, parties have already settled their dispute voluntarily, mutually and amicably.

14. Therefore, in view of the law laid down by the Hon'ble Supreme Court and the joint compromise petition moved by both the parties mutually, together with the facts and circumstances of the present case, the following cases are hereby quashed: -

- a. Domestic Violence Case No. 33 of 2017 (Madhup Madhumita Vs Abhishek Singh & Others), filed by the Petitioner No. 2, under section 12, 18, 19, 20, 22 & 23 of the Protection of Women from Domestic Violence Act. 2005, pending in the court of learned Judicial Magistrate 1st Class at Patna
- b. Complaint Case No. 1204 (c) of 2017 filed by Petitioner No. 2 for the offence's U/s 498-A and 406 L.P.C and Section 4 D.P. Act, Madhup Madhumita Vs Abhishek Singh & others, pending in the Court of learned S.D.J.M. Patna



- c. Buddha Colony P.S. Case No. 626 of 2022. registered under section 341, 323, 504, 506, 34 and 354 of The Indian Penal Code, 1860.
- d. Complaint Case No. 127 (c) of 2017 (Neha Singh Vs. Madhup Madhumita & Others) filed by Neha Singh (Wife of younger brother of O.P. No. 2) in which cognizance has been U/s 504, 352, 509 of the Indian Penal Code against Madhumay Madhup (Brother of the Petitioner No. 2) and U/s 504, 323, 352 and 509 of Indian Penal Code against Madhup Madhumita (Petitioner No. 2), pending in the Court of learned Judicial Magistrate, 1st Class at Lakhisarai.
- e. Domestic Violence Case No. 1 of 2017 filed by Suprita Singh (Mother of the O.P. No. 2) against Madhup Madhumita (Petitioner No. 2), under section 18 of The Protection of Women from Domestic Violence Act, 2005, pending in the Court of learned ACJM at Lakhisarai.
- f. Complaint Case No. 60C of 2023 (Abhishek Singh Versus Madhup Madhumita and Others) filed by the Petitioner No. 2 in which cognizance has been taken under 341, 323, 504, 506 and 34 of the Indian Penal Code 1860. against Madhup Madhumita (Petitioner No. 2), Madhumay Madhup (Brother of the Petitioner No. 2) and Rajan Anand (Family Friend of the Petitioner No. 2). This case is pending in the Court of learned Judicial Magistrate Ist Class at Lakhisarai.

15. So far as issue of divorce by mutual consent is concerned, both the parties, that is, the husband (O.P. No.02 - Abhishek Singh) and the wife (Petitioner No. 02 - Madhup Madhumita) will file a joint petition before the Additional



Principal Judge, Family Court, Patna in the Divorce Case No. 1355 of 2018.

16. If such an application is filed, the Court below will proceed to grant divorce by mutual consent.

17. The Hon'ble Supreme Court in the case of *Amardeep Singh v. Harveen Kaur (2017) 8 SCC 746* and *Amit Kumar v. Suman Beniwal (2021) SCC Online SC 1270* has laid down the law on the waiver of cooling off period of six months. Therefore, if any application is filed by the parties for waiver of the cooling-off period of the six months between the first motion and second motion, the same shall be considered and decided in accordance with law.

18. So far as the maintenance of the minor girl child is concerned, with the consent of the parties, interim maintenance is decided @ Rupees Twenty Thousand per month which shall start from September, 2020.

19. The husband (O.P. No. 02 - Abhishek Singh) shall start paying the aforementioned maintenance amount to his daughter in her bank account which shall be operated by her mother (Petitioner No. 02 - Madhup Madhumita)

20. The maintenance amount shall start from September, 2020. The maintenance amount can be modified as and when required on the application of the girl child in this Court or any Family Court.

21. The issue of guardianship which is seized in the case of Guardianship Case No. 30 of 2018 and the visitation rights of the husband (O.P. No. 02 - Abhishek Singh) shall also be decided by the Additional Principal Judge, Family Court, Patna.

22. The joint application of both the parties shall be filed



within eight weeks from today before the concerned Family Court, Patna.

23. The copy of the joint compromise petition along with supporting affidavit is taken on record.

24. With the aforesaid directions, these two applications are disposed of.

(Sandeep Kumar, J)

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