

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30743 of 2016

Arising Out of PS. Case No.-36 Year-2016 Thana- KATIHAR COMPLAINT CASE District-
Katihar

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Iqbal Ahmad Son of late Md. Alauddin permanent resident of Mazar Road,
Ashraf Lodge Salmari, P.S. - Azamnagar District - Katihar at present resident
of House No - 864 Mohalla - Khairabad Sultanpur, P.S. - Shahganj Kotwali
Nagar District Sultanpur Uttar Pradesh ... Petitioner

Versus

1. State Of Bihar and
 2. Raushan Ara daughter of Md. Ibraheem resident of Mazar Road, Ashraf
Lodge Salmari, P.S. - Azamnagar, District – Katihar ... Opposite Parties
- =====

Appearance :

For the Petitioner/s : Mr.Md. Hell Ahmad, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 26-03-2025

Heard learned counsel for the petitioner, the State and
learned counsel appearing for opposite party no.2.

2. Present application has been filed for quashing order
dated 20.05.2016, passed by Judicial Magistrate 1st class, Katihar
in connection with Complaint Case (CA) No.36/2016 whereby
cognizance has been taken against the petitioner under section
498A of the IPC and summons have been issued.

3. As per the complaint, complainant was married to
petitioner as per Muslim rites and custom and from the said
wedlock, five daughters and three sons were born and now under
influence of other accused persons, petitioner at the age of 55
years, wants to perform second marriage because of which she is
being tortured by the accused persons. On 5-9-2015 while
complainant along with her son was having lunch, in the
meantime, petitioner came along with accused No-2 & 3 and asked
her to leave the house and on refusal she was beaten up by the



accused persons and complainant any how managed to come at Mazar Road, Ashraf Lodge Salmari where at present she is residing. On 18-12-2015 at around 8:00 PM all accused persons came at Mazar Road, Ashraf Lodge Salmari and forced her to sign on Talaknama. Accused No- 2& 3 want to get the second marriage of accused No-1 performed with a lady of their relations and so they are interfering in the affairs of accused No-1 and complainant. With a view to grab the entire property petitioner is creating entire nuisance with the help of other accused persons.

4. Interlocutory Application No. 1 of 2024 has been filed by learned counsel for the petitioner. In paragraph 4 of the I.A. it has been submitted that due to persuasion of the well-wishers and intervention of family members of both parties, dispute between petitioner and opposite party no. 2 has been settled and accordingly compromise petition on 19.04.2024 has been filed by petitioner and opposite party no. 2 before the learned Additional Principal Judge, Family Court, Katihar passed in Maintenance Case No. 39/2016 and accordingly the Maintenance Case has been disposed of on 19.04.2024 on terms and conditions as agreed between the petitioner and opposite party no.2. Photo copy of order dated 19.04.2024 passed in Maintenance Case No. 39/2016 is annexed as annexure-9.

5. In paragraph 5 of the I.A., it has further been stated that petitioner and opposite party no. 2 have already dissolved their marriage as per Muslim right and customs in the year 2015 and both the parties are living separately and have no concern to each other. Both parties shall not claim any grievance/maintenance in future against each other. It has also been agreed that petitioner shall execute 6 decimals land in favour of opposite party no. 2 as one time maintenance of opposite party no. 2 and her minor



daughter Danish Fatma and also for payment of Den-Mahar of opposite party no. 2 and expenses of marriage and education of her minor children. As per agreement an undertaking, minor children shall not claim any other amount/ compensation or future maintenance from petitioner/Iqbal Ahmad. In paragraph 6, it has been stated that pending cases between both parties shall be withdrawn by the respective parties since disputes have already been settled between petitioner and opposite party no. 2 amicably and accordingly joint compromise petition has also been filed in the court below.

6. Learned counsel for the petitioner submits that divorce decree has been affected between the parties and they have amicably settled the matrimonial discord and have filed compromise petition in the court below. In this regard, learned counsel refers to penultimate paragraph of order dated 19.4.2024, passed by the Additional Principal Judge, Family Court, Katihar reads as follows:-

“After having gone through the documents and materials available on record. I find that the present maintenance case was filed by the applicant Roshan Ara along with her minor children for grant of maintenance for herself and her minor children against the opposite party. It further appears that both the parties have compromised the case and on the basis of compromise husband opposite party gave ten decimals land in Slamari Mauza under Khata 46, Khesra 111, 112 and agreed to give six decimals land in Salmari Mauza in lieu of one time maintenance to the petitioner/wife and her minor daughter petitioner no. 3 Danish Fatma and also in lieu of Den Mehar and daughter's marriage and child's education and they have expressed desire to dispose the case in the term of compromise and they do not want to contest the case rather they want to dispose the came in the term of settlement. Both have stated that they are agreeing to voluntarily and



without any pressure fear and undue advantage. This point has also come out in the conciliation proceeding.

Having considered the aforesaid facts, let the matter be disposed of in view of facts as stated above. Accordingly, the matter is disposed of with the observations as made above.”

7. Learned counsel submits that in this situation, continuance of criminal proceeding would merely be abuse of process of the court. In this connection, reference is made to the case of **Gian Singh Vs. State of Punjab & Another**, reported in **(2012)10 SCC 303**.

8. Learned counsel for opposite party no.2 does not dispute the factum of compromise which has been taken into consideration in order dated 19.4.2024, passed by the Additional Principal Judge, Family Court, Katihar, in Maintenance Case No. 39 of 2016 disposing of the case on terms and conditions agreed between the parties.

9. Order dated 19.4.2024 reflects that parties have already compromised their matrimonial differences in terms of settlement arrived at between them and now they do not want to pursue the criminal proceedings. Hon'ble Supreme Court in a number of cases has observed that, to prevent abuse of the process of any Court and to secure ends of justice, criminal proceedings in matrimonial disputes should be quashed by the High Court where parties have settled their disputes amicably. It has expressed concern over misuse of Section 498A IPC stating that it should not be used as a weapon against innocent family members of the husband. The court has urged for a balanced approach in dealing with such cases. The Court has also observed that though offence



punishable under section 498A of the Indian Penal Code is not compoundable, still the High court, while exercising its power conferred upon it by virtue of Section 482 of the Cr.P.C., should quash criminal proceeding in non-compoundable offences relating to matrimonial dispute. In this regard, reference can be made to the case decision of the Hon’ble Spureme Court in in the case of (1) **B.S. Joshi & Ors. Vs. The State of Haryana and Ors., reported in (2003) 4 SCC 675**, (2) **Gian Singh Vs. State of Punjab & Another**, reported in **(2012)10 SCC 303** and (3) **Jitendra Raghuvanshi Vs. Babita Raghuvanshi**, reported in **(2013) 4 SCC 58**.

10. In view of the fact that parties have resolved their dispute amicably 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 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 petitioner, but also to the opposite party no.2 and would be tantamount to an abuse of the process of the Court.

11. Therefore, present application is allowed and order taking cognizance dated 20.5.2016, passed in Complaint Case (CA) No. 36/2016 by Judicial Magistrate 1st class, Katihar is hereby quashed, so far as petitioner is concerned.

(Prabhat Kumar Singh, J)

Shashi

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.04.2025.
Transmission Date	02.04.2025.

