

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61400 of 2017

Arising Out of PS. Case No.-545 Year-2007 Thana- NAGAR District- Vaishali

1. Santosh Kumar, S/o Jay Prakash Sah,
2. Jay Prakash Sah, S/o Late Kamal Sah,
3. Sukeshwari Devi, W/o Jay Prakash Sah, All R/o Village- Dagroo, P.S.- Mahua, District- Vaishali.
4. Jawahar Sah, S/o Parmeshwar Sah, R/o Village + P.S.- Teghra, District- Begusarai.
5. Archana Devi, D/o Jay Prakash Sah, R/o Village- Dagroo, P.S.- Mahua, District- Vaishali.

... .. Petitioner/s

Versus

1. State of Bihar
2. Sweta Raj, W/o Santosh Kumar, D/o Vijay Shankar Sah, R/o Mohalla- Yusufpur Dhanauti, P.O.- Hajipur, P.S.- Industrial Area, Hajipur, District- Vaishali.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kishore Thakur, Adv. Ms. Priyam Kumari, Adv.
For the State	:	Mr. Binod Kumar No. 3, APP
For the O.P. No. 2	:	None.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 11-02-2025 Heard Mr. Surendra Kishore Thakur, learned counsel appearing for the petitioners and Mr. Binod Kumar No. 3, learned APP appearing for the State while no one appears on behalf of the O.P. No. 2.

2. The instant petition has been filed under section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') with a prayer to quash the entire criminal proceeding of the G.R. No. 3486/2007/Tr. No. 2796/2010 arising out of Hajipur Town P.S.



Case No. 545 of 2007 for the offences punishable under section 498A of the Indian Penal Code and sections 3 and 4 of the Dowry Prohibition Act.

3. The main submissions advanced by petitioners' counsel are that the petitioner No. 1 and the O.P. No. 2 entered into marital relationship and in between them, some dispute arose and thereafter, the petitioner No. 1 initially filed Matrimonial Suit No. 135 of 2007 seeking divorce which was dismissed by the family court, Vaishali at Hajipur and that judgment was challenged by the petitioner No. 1 by filing Misc. Appeal No. 443 of 2012 before this Court in which the petitioner No. 1 and the O.P. No. 2 appeared and both agreed to settle their dispute by way of one time settlement and also, agreed to dissolve their marriage on the basis of mutual consent and as per settlement, a sum of Rs. 10,00,000/- (Rupees Ten Lakhs) was to be paid by the petitioner No. 1 by direct transfer into the account of the O.P. No. 2 and all these facts were mentioned in the order dated 15.11.2016 passed in Misc. Appeal No. 443/2012 by the then Hon'ble Division Bench of this Court and the same may be perused. It is further submitted that in compliance with the observations made by this Court in Misc. Appeal No. 443/2012, both the spouses proceeded to dissolve



their marriage on the basis of mutual consent by filing Mutual Divorce Case No. 44/2017, upon that basis, the Family Court, Vaishali at Hajipur, dissolved their marital relationship and the petitioner No. 1 paid Rs. 10,00,000/- to the O.P. No. 2 as per the terms and conditions of their settlement and in this regard, the order dated 10.03.2017 passed in Mutual Divorce Case No. 44/2017 filed with this petition as Annexure -5 may be perused. It is further submitted that as the O.P. No. 2 has got permanent alimony of Rs. 10,00,000/- (rupees Ten Lakhs) and also got her marriage dissolved with petitioner No. 1, so, she has lost her interest in this matter and therefore, she is not appearing despite the notice having been received by her and in this regard, office report is also relevant. It is further submitted that in between the petitioners and the O.P. No. 2, there is now only one case bearing Hajipur Town P.S. Case No. 545 of 2007 lodged by the O.P. No. 2 for the offences under section 498A of IPC and sections 3 and 4 of the Dowry Prohibition Act and in view of the aforesaid settlement if the petitioners are subjected to face trial for the alleged offences then it will be complete harassment to them.

4. Learned APP appearing for the State has opposed the prayer of the petitioners made in this petition, however, he is not in a position to refute the aforesaid statements made by



petitioners' counsel.

5. Having considered the aforesaid submissions and having gone through the relevant materials, particularly, the order dated 15.11.2016 passed in Misc. Appeal No. 443/2012 and also, the order dated 10.03.2017 passed in Mutual Divorce Case No. 44/2017 by which the marital relationship between the petitioner No. 1 and the O.P. No. 2 has been dissolved and the same also shows the receiving of Rs. 10,00,000/- (rupees Ten Lakhs) by the O.P. No. 2 from the petitioner No. 1, in my opinion, if the prosecution is allowed to run against the petitioners for the alleged offences then it would be complete harassment to them and the same also would be abuse of the process of law. Accordingly, this Court finds substance in the prayer made by the petitioners in this petition, so, the entire criminal proceeding against the petitioners having arisen out of Hajipur Town P.S. Case No. 545 of 2007 is hereby quashed and the instant petition stands allowed.

(Shailendra Singh, J)

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