

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60611 of 2023

Arising Out of PS. Case No.-249 Year-2023 Thana- PATRAKARNAGAR District- Patna

1. NISHI KUMARI Wife of Ramashish Singh, R/o- 29, S.K. Colony, Kankarbagh, P.S.- Patrakar Nagar, District - Patna.
2. Ramashish Singh, Son of Late Kailash Singh R/o- 29, S.K. Colony, Kankarbagh, P.S.- Patrakar Nagar, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Neha Kumari, Wife of Rajesh Kumar R/o - Malahi Pakri Chok, 29 S. K. Colony, Kankarbagh, P.S.- Patrakar Nagar, District - Patna at presently residing D/o Vinod Kumar Singh, Add.- Vidyadhar (Ward No.- 6), Khagaria, P.S.- Khagaria, District - Khagaria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Onkar Nath, Advocate

For the Opposite Party/s : Mr. Shahabuddin Azeem @ S. Azeem, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 14-07-2025

Heard learned counsel appearing on behalf of the parties.

2. The present application has been preferred under Section 482 of the Criminal Procedure Code (in short “Cr.P.C.”) for quashing of entire proceedings including Patrakar Nagar P.S. Case No. 249 of 2023 (P.T.N. No. BRPA02P0031902023) dated 07.04.2023 lodged for the offences punishable under Sections 109, 328, 498(A), 341, 342, 323, 504 and 120(B) of the Indian penal Code.



3. The informant of aforesaid case, namely, Neha Kumari, who is opposite party no. 2 married with one Rajesh Kumar on 23.01.2022 as per Hindu rites and Rituals. It is further stated that due to non-fulfillment of demand of dowry as raised for several lacs rupees and also other demands, the in-laws including her husband assaulted her, out of which she received serious injuries and admitted in hospital on 07.04.2023, where she made her statement to Police. It also stated that her husband already solemnized two marriages before marriage with her and same was concealed. It is stated that out of compulsion created by petitioners and her husband, she made an attempt to commit suicide.

4. On the basis of aforesaid, the Patrakar P.S. Case No. 249/2023 was lodged on 07.04.2023, where police after investigation submitted charge-sheet for the offences punishable under Sections 109, 328, 498(A), 341, 342, 323, 504 and 120(B) of the Indian penal Code (in short "IPC") against petitioners and other accused persons.

5. The learned Magistrate upon perusal of materials available on record also took cognizance against petitioners



and other accused for aforesaid offences.

6. Learned counsel appearing for petitioners without exploring the avenue of merits as available to the petitioners submitted that the matter between the parties now stands compromised, where both parties decided to dissolve their marriage under mutual consent as provisioned under 13B of the Hindu Marriage Act, against the permanent alimony of Rs. 20 lacs. It is submitted that out of 20 lacs, Rs. 10 lacs already paid to opposite party no. 2 by son of petitioners, who is the husband of opposite party no. 2, namely, Rajesh Kumar. It is pointed out that in furtherance of same, opposite party no. 2 also withdraw her maintenance case, which was pending before the court of learned Principal Judge, Family Court, Khagaria as Maintenance Case No. 75M of 2023. It is pointed out that the parties filed their mutual divorce petition before the Family Court, Khagaria, which is pending as Matrimonial Divorce Case No. 04 of 2025, where the statement for first motion was recorded by the Court. It is submitted that as the occurrence is arising out of matrimonial discord, therefore in view of compromise as submitted above, the proceedings for



the offence under Section 328 of the IPC be also quashed to secure end of justice. Learned counsel relied upon the legal report of ***Naushey Ali and Others Vs. State of U.P. and Another*** reported in ***2025 SCC OnLine SC 292***.

7. The learned counsel appearing for opposite party no. 2 also approved the factum of compromise as submitted above by learned counsel appearing for petitioners and submitted that he has no objection as to quash the present proceedings against petitioners and also against the husband of opposite party no. 2, who is the son of petitioners.

8. It would be apposite to reproduce para 21 of the ***Naushey Ali ' case (supra)***, which reads as under:

21. *In State of M.P. v. Laxmi Narayan [State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688 : (2019) 2 SCC (Cri) 706] , after discussing the ratio in Narinder Singh v. State of Punjab [Narinder Singh v. State of Punjab, (2014) 6 SCC 466 : (2014) 3 SCC (Cri) 54] and other judgments, this Court held : (Laxmi Narayan case [State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688 : (2019) 2 SCC (Cri) 706] , SCC pp. 704-705, para 15)*

“15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for



the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

15.4. Offences under Section 307IPC and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307IPC and/or the Arms Act, etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge



under Section 307IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paras 29.6 and 29.7 of the decision of this Court in Narinder Singh [Narinder Singh v. State of Punjab, (2014) 6 SCC 466 : (2014) 3 SCC (Cri) 54] should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5 [Ed. : Para 15.5 corrected vide Official Corrigendum No. F.3/Ed.B.J./22/2019 dated 3-4-2019.] . While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.”

9. In view of aforesaid factual and legal submission and by taking note of fact as parties settled their issues and differences by way of amicable settlement, where they decided to dissolve their marriage under mutual consent



against permanent alimony of Rs. 20 lacs out of which, Rs. 10 lacs already received by opposite party no. 2, accordingly, continuing with present criminal proceedings before the learned Trial Court would only amount to abuse of the process of court of law.

10. Accordingly, entire proceedings including Patrakar Nagar P.S. Case No. 249 of 2023 (P.T.N. No. BRPA02P0031902023) dated 07.04.2023 *qua* petitioners and other accused persons are hereby quashed/set-aside to secure ends of justice.

11. Accordingly, present quashing petition stands allowed.

12. Let a copy of this judgment be sent to the learned trial court/concerned court forthwith.

(Chandra Shekhar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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