

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70257 of 2023

In
CRIMINAL MISCELLANEOUS No.42918 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Munger

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Jay Saha S/O Late Kanhai Saha R/O Village- Uttar Baluchak, P.S- English Bazar, P.O- Malda, Distt.- Malda(West Bengal).

... .. Petitioners

Versus

1. The State of Bihar
2. Manisha Kumari, wife of Jay Saha, daughter of Gajendra Saha, resident of Chhoti Daultapur, Behind Gandhi Pustakalaya, P.S- Jamalpur, Distt.- Munger.
3. The Chief Secretary Government Of West Bengal West Bengal
4. The District Inspector Of School, Malda, West Bengal Opposite Party In Cr. Misc. No. 42918 Of 2019

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Vijay Kumar Verma, Advocate
For the State	:	Mr. Nagendra Prasad, Advocate
For the respondents	:	Dr. Amitesh Kumar, Advocate
		Mr. Gaurav Ananda, Advocate
		Mr. Anurag Saurav, Advocate
		Ms. Sharda Raje Singh, Advocate
		Mr. Abhishek Kumar, Advocate
		Ms. Prity Kumari, Advocate
		Mr. Vaibhav Kumar, Advocate
		Mr. Ankesh Bibhu, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

23 04-07-2025 Heard learned counsel for the petitioner, learned APP for the State, learned counsel for the respondent no.2 and learned counsel for the respondent nos.3 and 4.

2. This application has been filed for
modification/recall of the order dated 22.06.2023 passed by this
Court in Criminal Miscellaneous No.42918 of 2019, whereby



this Court has disposed of the aforesaid case and directed the opposite party no.4 to deduct Rs.30,000/- from the salary of the petitioner (Rs.15,000/- towards interim maintenance and Rs.15,000/- towards arrears of maintenance). The same deduction was directed to continue till the arrears are adjusted and thereafter Rs.15,000/- shall be deducted towards maintenance only. While disposing the case, it has been directed that the aforesaid order shall be modified on the application of either side. The petitioner has also assailed the orders dated 31.08.2018 and 25.10.2018 passed by the Principal Judge, Family Court, Munger, in Matrimonial Case No.111 of 2016, which were also impugned in Criminal Miscellaneous No.42918 of 2019.

3. It has mutually been submitted by learned counsel for the petitioner and the opposite party no.2 that the parties have amicably settled their dispute and the entire amount of Rs.18,00,000/- has been paid to the opposite party no.2 which includes the earlier payment of Rs.1,50,000/-. Further the household articles have also been returned to the opposite party no.2. In these circumstances, learned counsel for the petitioner prays for modification of the order dated 22.06.2023 passed by this Court in Criminal Miscellaneous No.42918 of 2019.



4. 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:-

“34. 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.



35. *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.*
36. *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) observed 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.

37. *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.”*

5. 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 India¹ or even under Section 482 of Criminal Procedure Code, 1973.”

6. In the present case, the parties have amicably settled their dispute and they are ready to move on and not further pursue their criminal cases which they have filed against other. 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.

7. Though it has been submitted by learned counsel for the opposite party no.2 that the household articles returned to her are not in good condition but considering the fact



that the marriage is quite old, it is not expected that the household articles would remain in the same shape as if they are new.

8. At this stage, it has been submitted by learned counsel for the petitioner that a departmental proceeding has been initiated against the petitioner because of this matrimonial dispute.

9. If that be so, I am of the view that for a matrimonial dispute, which has ultimately been settled between the parties amicably, the petitioner should not be proceeded departmentally on this ground alone. Hence, it is expected that the authorities concerned will drop the departmental proceeding initiated against the petitioner considering the aforesaid fact.

10. Since the opposite party no.2 has already received the entire amount of Rs.18,00,000/- which includes the earlier payment of Rs.1,50,000/-, the authorities concerned shall not deduct the maintenance amount from the account of the petitioner henceforth.

11. Considering the aforesaid facts and also the law laid down in the case of *Shilpa Sailesh (supra)* and *Rangappa Javoor (supra)*, I am of the view that allowing the criminal cases initiated by the parties against each other would



serve no fruitful purpose and rather would amount to abuse of the process of the Court.

12. Accordingly, the order dated 22.06.2023 passed by this Court in Criminal Miscellaneous No.42918 of 2019 is modified to the above extent. Further, the orders dated 31.08.2018 and 25.10.2018 passed by the Principal Judge, Family Court, Munger, in Matrimonial Case No.111 of 2016 are also hereby quashed.

13. The entire proceedings arising out of Mahila P.S. Case No.15 of 2016 registered on 10.07.2016; Maintenance Case No.111 of 2016 and Malda P.S. Case No.372 of 2017 registered on 04.07.2017 filed by the opposite party no.2 against the petitioner are also hereby quashed.

(Sandeep Kumar, J)

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