

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26978 of 2018

Arising Out of PS. Case No.-254 Year-2015 Thana- KOTWALI District- Munger

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1. Bijay Kumar Gupta @ Vijay Kumar Gupta
 2. Ajay Kumar Gupta, Both sons of Late Narayan Prasad Gupta, Both Resident of Mohalla-Murgiyachak, Purab Sarai, Police Station-Kotwali, District-Munger.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mamta Devi Wife of Bijay Kumar Gupta @ Vijay Kumar Gupta, Both Resident of Mohalla-Murgiyachak, Purab Sarai, Police Station-Kotwali, District-Munger.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Abdul Mannan Khan, Advocate Mr. Binay Kumar, Advocate
For the State	:	Mr. Mustaque Alam, APP
For the O.P. No. 2	:	Mr. Ashutosh Kumar Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

6 19-02-2026 Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel for the opposite party no. 2.

2. This petition has been filed for quashing the order of cognizance dated 04.01.2016 passed by learned Chief Judicial Magistrate, Munger (hereinafter referred to as 'Magistrate') in Kotwali P.S. Case No. 254 of 2015 (G.R. No. 2123 of 2015), wherein the learned Magistrate took cognizance of the offences under Sections 341, 323, 506 and 498A/34 of Indian Penal Code, 1860 against the petitioners.



3. The factual background, in the present case, is that the O.P. No.2, Mamta Devi, submitted a written report to the S.H.O., Purab Sarai T.O.P., Munger where it was alleged that her husband (petitioner no.1), used to assault her and her son after consuming liquor. It was further alleged that on 14.11.2015 at about 5:30 P.M., when she returned home after purchasing articles for *Puja*, petitioner no.1 questioned her about the money earned, abused her in filthy language, and assaulted both her and their son, as a result of which the son sustained a head injury. The O.P. No.2 also alleged that she had earlier lodged complaints against her husband but there was no change in his behaviour. On the basis of the said written report, police case bearing Kotwali P.S. Case No. 254 of 2015 (G.R. No. 2123 of 2015) was registered and, after investigation, charge-sheet was filed and the learned Magistrate took cognizance of the offences and issued summons to the petitioners, by the impugned order dated 04.01.2016. Petitioner No.1 is the husband of O.P. No.2, whereas petitioner No.2 is the brother-in-law (*devar*) of O.P. No.2.

4. During the pendency of the present application, the subsequent development in this case is that the petitioner no.1 (husband of O.P. No.2) died.



5. Learned counsel for the petitioners submits that petitioner no.1 who was the husband of the O.P. No.2, has already expired during the pendency of the proceeding and, as such, the case against him has abated. It is submitted that so far as petitioner no.2, who is brother-in-law (*devar*) of the O.P. No.2, is concerned, the allegation against him in the F.I.R. is general and omnibus, and he has been implicated only on account of his relationship with the petitioner no.1. It is submitted that the dispute between the parties arose out of matrimonial discord and the same has now been resolved, and therefore no fruitful purpose would be served by keeping the criminal prosecution pending. Moreover, it is submitted that in the absence of any intention on the part of the O.P. No.2 to pursue the matter, compelling petitioner no.2 to face the rigours of criminal trial would amount to undue harassment. Learned counsel further prays that considering the subsequent development and the expressed unwillingness of O.P. No.2 to prosecute the case, this Court, in exercise of its inherent jurisdiction, quash the impugned order of cognizance along with the entire criminal proceeding in the interest of justice.

6. Learned counsel for O.P. No.2 submits that the dispute between the parties arose out of matrimonial discord and



misunderstanding within the family. It is submitted that with the passage of time, the parties have resolved their differences amicably and O.P. No.2 does not intend to pursue the criminal case any further. Learned counsel further submits that petitioner no.1 (husband of O.P. No.2) has already expired and O.P. No.2 does not wish to continue the proceeding against petitioner no. 2, who is her brother-in-law. Learned counsel, therefore, prayed that this Court may take a lenient view and pass appropriate orders in the interest of justice.

7. Learned A.P.P. for the State, fairly submits that O.P. No.2 has expressed her unwillingness to pursue the matter as her husband (petitioner no.1) with whom she had grievances has already expired and petitioner no.2 is her brother-in-law against whom the allegations are general and omnibus. In view of the subsequent development in this case, learned A.P.P. prays to pass appropriate orders in accordance with law.

8. I have heard learned counsel for the petitioners, learned counsel for O.P. No.2 and learned A.P.P. for the State, and have carefully perused the materials available on record. It appears that the present case arose out of matrimonial discord between petitioner no.1 (since deceased) and O.P. No.2. Learned counsel for the O.P. No.2 has categorically stated before this



Court that she does not wish to pursue the criminal proceeding any further. In view of the subsequent development and considering that the dispute was essentially personal in nature, the continuance of the criminal proceeding would not serve any useful purpose. Moreover, petitioner no.1 having died, the proceeding against him stands abated, and so far as petitioner no.2 is concerned, the allegations against him are general and omnibus in nature. In such circumstances, this Court is of the considered opinion that allowing the prosecution to continue would amount to abuse of the process of the Court.

9. Insofar as the principles governing quashing of a complaint/cognizance/criminal proceeding on the basis of compromise or settlement between the parties, the Hon'ble Supreme Court has held in ***Parbatbhai Aahir and Ors. v. State of Gujarat and Anr.***, reported in ***(2017) 9 SCC 641*** as under:

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:

16.1. Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court.

16.2. The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding



an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3. In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

16.4. While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.

16.5. The decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated.

16.6. In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.

16.7. As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.....”

10. Accordingly, in view of the discussions made hereinabove and considering the subsequent development



wherein O.P. No.2 has expressed her unwillingness to pursue the matter any further, this Court is of the considered opinion that continuation of the criminal proceeding would amount to abuse of the process of law. Further, in the facts and circumstances of the case, no useful purpose would be served in allowing the prosecution to continue against petitioner no.2.

11. Resultantly, the impugned order dated 04.01.2016 passed in Kotwali P.S. Case No. 254 of 2015 (G.R. No. 2123 of 2015) by the learned Chief Judicial Magistrate, Munger, taking cognizance of the offences aforementioned and issuing summons against the petitioners, is hereby quashed.

12. Accordingly, the present Criminal Miscellaneous application stands allowed.

13. Let a copy of this order be communicated to the learned Court concerned forthwith.

(Sunil Dutta Mishra, J)

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