

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7073 of 2017

Arising Out of PS. Case No.-1462 Year-2014 Thana- DARBHANGA COMPLAINT CASE
District- Darbhanga

-
1. Nilima Jha and Ors wife of Narendra Nath Jha resident of village - Dhakjari, P.S. Benipatti, District - Madhubani.
 2. Narendra Nath Jha son of Late Kamla Nand Jha resident of village - Dhakjari, P.S. Benipatti, District - Madhubani.
 3. Taranand Mishra son of Late Vishwanath Mishra resident of village - Thalwar Sobhipatti, P.S. Ashok Paper Mill, District - Darbhanga.
 4. Mukesh Kumar Jha son of Sri Narendra Nath Jha resident of village - Dhakjari, P.S. Benipatti, District - Madhubani.

... .. Petitioner/s

Versus

1. State of Bihar
2. Smt. Pooja Jha daughter of Amarendra Kumar Choudhary resident of Mohalla - Mishra Tola, Police Station - Town, Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Binodanand Mishra, Sr. Advocate Ms. Sandhya Sinha, Advocate Mr. Gunjan Kumar Jha, Advocate
For the State	:	Dr. Mrityunjaya Kumar Gautam, APP
For the O.P. No. 2	:	Mr. Ashish, Advocate Mr. GL Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR
ORAL ORDER

4 24-07-2026 Heard learned senior counsel for the petitioners and learned counsel for the State as well as learned counsel for the Opposite Party No. 2.

2. The present application has been filed for quashing of the order dated 31.07.2015 passed by the learned S.D.J.M., Darbhanga in complaint Case No. 1462 of 2014, whereby cognizance has been taken against the petitioners for the



offences punishable under Sections 384, 406, 498(A) of the I.P.C. and Section 3 and 4 of the Dowry Prohibition Act.

3. Learned senior counsel for the petitioners seeks permission to withdraw the present application with respect to petitioner no. 3, **Taranand Mishra**, as he passed away during the pendency of this application.

4. Prayer is allowed.

5. Accordingly, the present application is dismissed as withdrawn with respect to the petitioner no. 3, **Taranand Mishra**.

7. As per the prosecution case, the marriage of the complainant was solemnized with the petitioner no. 4, namely, Mukesh Kumar Jha, on 10.12.2010. Soon after the marriage, the accused persons started demanding dowry, and upon non-fulfillment of the same, the complainant was subjected to threats and cruelty. It is further alleged that the petitioner no. 4, her husband, attempted to kill her by pressing her neck.

8. Learned senior counsel for the petitioners submits that petitioner no. 1 is the mother-in-law, petitioner no. 2 is the father-in-law, and petitioner no. 4 is the husband of the complainant. Learned senior counsel for the petitioners further submits that prior to the filing of the present case, the petitioner



no. 4 had instituted a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act before the learned Principal Judge, East District Family Court, Vishwas Nagar, New Delhi, as petitioner no. 4 was working and residing in Delhi at the relevant time. It has further been submitted that the learned Principal Judge ordered the issuance of notice on 30.04.2014 and the same was received by the complainant on 25.05.2014, which finds mention in the order dated 22.08.2014 passed in the said matrimonial suit. It has further been submitted that upon filing of a fresh affidavit by petitioner no. 4 as directed by the concerned Court, fresh notice was issued. Despite valid service of notice, the complainant did not choose to appear in the matrimonial suit which was ultimately allowed by judgment dated 17.08.2016. It has further been submitted that the present complaint case was instituted on 01.09.2014, after the complainant had received notice of the said matrimonial suit for restitution of conjugal rights. It has also been submitted that even after the suit for restitution of conjugal rights was decreed, the complainant, despite having knowledge through the Court, did not choose to reside with petitioner no. 4. Learned senior counsel for the petitioners has further submitted that Opposite Party No. 2 subsequently filed Matrimonial Suit



No. 51 of 2016 before the Court of the learned Principal Judge, Family Court, Darbhanga for grant of divorce. Thereafter, petitioner no. 4 appeared in the said proceeding, and the matter was referred for conciliation. It has been submitted at the Bar that the conciliation proceedings failed, and ultimately, a decree of divorce in favour of Opposite Party No. 2 was passed by judgment and decree dated 05.12.2022. It has further been submitted that the proceedings against the co-accused persons, namely, Puja Jha (sister-in-law), Mithilesh Kumar (brother-in-law/Bhaisur), and Kajal Jha (married sister-in-law) of Opposite Party No. 2, were quashed vide order dated 06.07.2023 passed in Cr. Misc. No. 9518 of 2016, whereby the impugned order taking cognizance against them was set aside.

9. Learned senior counsel for the petitioners has submitted that much water has flown since the lodging of the present case against the petitioners by Opposite Party No. 2, and in the meantime, a decree of divorce has been passed in favour of Opposite Party No. 2 against her husband, petitioner no. 4. It has been contended that the present case was maliciously instituted with the only intention of wreaking vengeance against the petitioners and with a view to spite personal score with a malicious intent. Learned senior counsel for the petitioners



referred to the judgment of the Hon'ble Supreme Court in the case of ***Kahkashan Kausar @ Sonam Vs. State of Bihar*** reported in ***2022 SCC OnLine SC 162*** and has submitted that since there are general and omnibus allegation against petitioner nos. 1 and 2 the same deserve to be quashed with respect to them. Learned senior counsel for the petitioners has also submitted referring to a judgment of Hon'ble Supreme Court in the case of ***Geeta Mehrotra and Anr. vs. State of U.P. and Anr.*** reported in ***AIR 2013 SC 181*** and referring to paragraph nos. 21 and 22 of the said judgment submitted that decree of divorce has been passed between the parties. The relevant paragraph nos. 21 and 22 reads as under:-

21. In yet another case reported in AIR 2003 SC 1386 in the matter of B.S. Joshi and Ors. v. State of Haryana and Anr. it was observed that there is no doubt that the object of introducing Chapter XXA containing Section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punish the husband and his relatives who harass or torture the wife to coerce her relatives to satisfy unlawful demands of dowry. But if the proceedings are initiated by the wife under Section 498A against the husband and his relatives and subsequently she has settled her disputes with her husband and his relatives and the wife and husband agreed for mutual divorce, refusal



to exercise inherent powers by the High Court would not be proper as it would prevent woman from settling earlier. Thus, for the purpose of securing the ends of justice quashing of FIR becomes necessary, Section 320, Cr.P.C. would not be a bar to the exercise of power of quashing. It would however be a different matter depending upon the facts and circumstances of each case whether to exercise or not to exercise such a power.

22. In the instant matter, when the complainant and her husband are divorced as the complainant-wife secured an ex-parte decree of divorce, the same could have weighed with the High Court of consider whether proceeding initiated prior to the divorce decree was fit to be pursued in spite of absence of specific allegations at least against the brother and sister of the complainant's husband and whether continuing with this proceeding could not have amounted to abuse of the process of the court. The High Court, however, seems not to have examined these aspects carefully and have thus side-tracked all these considerations merely on the ground that the territorial Jurisdiction could be raised only before the magistrate conducting the trial.

10. Learned senior counsel for the petitioners has further relied upon the judgment of the Hon'ble Supreme Court, in ***Suman Mishra & Ors. v. State of Uttar Pradesh & Anr.***, reported in **2025 INSC 203** and has submitted that criminal proceedings in matrimonial disputes even taken at face value do



not substantiate the offences alleged, where the allegation against the husband and his family members lack specificity and credibility and as such the continuation of the proceeding is unjustified.

11. Learned counsel for the State as well as learned counsel for the Opposite Party No. 2 has opposed the prayer of the petitioners. Learned counsel for the Opposite Party No. 2 has further been submitted that the complainant in a solemn affirmation and the witnesses during the course of the inquiry supported the allegation against the petitioners and as such, the learned Magistrate *prima facie* found the case to be true against the petitioners and hence the order taking cognizance with respect to the petitioners may not be interfered. It has further been submitted that the petitioners have actively participated in the commission of offence against the Opposite Party No. 2.

12. Heard the learned counsel for the parties and perused the records.

13. Considering the facts and circumstances of the case in its totality, this Court finds that the present prosecution against the petitioners has been initiated with mala fide intention and personal vendetta. The continuation of the proceedings against the petitioners would amount to abuse of the process of



the Court. Accordingly, the order taking cognizance dated 31.07.2015 passed by the learned S.D.J.M., Darbhanga, in Complaint Case No. 1462 of 2014 is hereby quashed.

14. This application is allowed.

(Praveen Kumar, J)

Aarti/-

U		T	
---	--	---	--

