

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No. 48919 of 2014

Arising Out of Complaint Case No.-2948 Year-2011 Thana- KATIHAR COMPLAINT CASE

District- Katihar

=====

Anuradha Gupta, W/o Sri Mohan Lal Gupta, resident of Village - Naya Tola,
Tingachhia, P.S. - Katihar (Nagar), District - Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mosmat Nirmala Devi, Wife of Late Daroga Shukla, Resident of Village -
Tingachhiya, Ward No. - 44, P.S. - Katihar Town, District - Katihar.

... .. Opposite Party/s

=====

Code Of Criminal Procedure, 1973 – Section 482

Petitioner accused moved the court u/s-482 crpc seeking to quash cognisance and summoning order of the magistrate. Ld. CJM took cognisance u/s-467, 468, 471 and 120B of the IPC --- offences are not compoundable – The court in exercise of its inherent power u/s-482 of the code, which is to prevent the abuse of the process of the court as well as to secure the ends of justice finds that the matter basically relates to land/property dispute and dispute has been compromised, it would not serve the ends of Justice to allow the complaint case to proceed.

Yogendra Yadav vs. State Of Jharkhand; reported as (2014)4 PLJR (SC) 518 was relied on

The entire criminal proceeding stands quashed.

[Para 3, 9 and 10]

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 48919 of 2014**

Arising Out of Complaint Case No.-2948 Year-2011 Thana- KATIHAR COMPLAINT CASE
District- Katihar

=====

Anuradha Gupta, W/o Sri Mohan Lal Gupta, resident of Village - Naya Tola,
Tingachhia, P.S. - Katihar (Nagar), District - Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mosmat Nirmala Devi, Wife of Late Daroga Shukla, Resident of Village -
Tingachhiya, Ward No. - 44, P.S. - Katihar Town, District - Katihar.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Krishan Chandra, Advocate
For the State : Mr. B. N. Pandey, APP

=====

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 14-05-2019

Heard learned counsel for the petitioner and learned
APP for the State.

2. Despite service of notice on opposite party no. 2-
complainant, nobody appeared when the matter was taken up and
heard.

3. The petitioner has moved the Court under Section
482 of the Code of Criminal Procedure, 1973 (hereinafter referred
to as the 'Code') for the following relief:

*“That the petitioner through this petition
seeks quashing of the order dated 16.01.2012
whereby and whereunder the learned Chief Judicial
Magistrate, Katihar has taken cognizance of the
offence under section 467, 468, 471 and 120B of*



Indian Penal Code in connection with Complaint Case No. 2948/11 and issued summon to the petitioner for her appearance.”

4. The allegation against the petitioner is that in connivance with other accused, by playing fraud and relying on forged and fabricated documents, sale deed in favour of the petitioner was executed.

5. On 11.03.2019, the Court while noticing the arguments advanced on behalf of the petitioner that subsequent to filing of the case, the opposite party no. 2 herself has filed a compromise petition before the Court below, had issued notice to the opposite party no. 2. Copy of the compromise petition is on record as Annexure-2 to the present application.

6. Learned counsel for the petitioner submitted that the compromise having been filed in the complaint case itself and the same relating to land and its distribution among the parties, including the petitioner, coupled with the fact that request has been made in the compromise that based on the terms therein, the complaint case be disposed off, continuance of the same would be an abuse of the process of the Court.

7. Learned APP submitted that the allegation is with regard to forging and fabricating of documents which is non compoundable.



8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that a case for interference has been made out.

9. The matter basically relates to land dispute. The allegation being of having got registered deed of sale based on forged and fabricated documents in favour of the petitioner and thereafter the opposite party no. 2 herself filing a compromise in which various properties, including the lands in question have been apportioned between the parties and prayer being made to dispose of the complaint clearly requires to be taken note of. Learned APP is correct in his contention that the allegation with regard to forging and fabricating of documents is not compoundable. Therefore, the petitioner had to move before this Court for putting an end to the complaint case as perhaps the Court below would not have been in a position to pass any positive order based on the compromise. The Court in exercise of its inherent power under Section 482 of the Code, which is to prevent the abuse of the process of the Court as well as to secure the ends of justice, finds that the matter basically relates to land/property dispute and the party which has alleged forgery herself preferring a compromise and there being distribution of the lands in question, along with other lands, among the parties, it



would not serve the ends of justice to allow the complaint case to proceed.

10. In this connection, it would be useful to refer to the judgment of the Hon'ble Supreme Court in **Yogendra Yadav vs. State of Jharkhand** reported as **2014(4) PLJR (SC) 518**, where at paragraphs no. 4 to 6, it has been held as under:

*“4. Now, the question before this Court is whether this Court can compound the offences under Section 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (**Gian Singh v. State of Punjab**). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing*



such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.

5. In **Gian Singh** this Court has observed that where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. Needless to say that the above observations are applicable to this Court also.

6. Learned counsel for the parties have requested this Court that the impugned order be set aside as the High Court has not noticed the correct position in law in regard to quashing of criminal proceedings when there is a compromise. Affidavit has been filed in this Court by complainant-Anil Mandal, who is respondent No. 2 herein. In the affidavit he has stated that a compromise petition has been filed in the lower court. It is further stated that he and the appellants are neighbours, that there is harmonious relationship between the two sides and that they are living peacefully. He has further stated that he does not want to contest the present appeal and he has no grievance against the appellants. Learned counsel for the parties have confirmed that the disputes between the parties are settled; that parties are abiding by the compromise deed and living peacefully. They have urged that in the circumstances pending proceedings be quashed. State of Jharkhand has further filed an affidavit opposing the compromise. The affidavit does not persuade us to reject the prayer made by the appellant and the second respondent for quashing of the proceedings.”

11. In view thereof, the application stands allowed. The entire criminal proceeding relating to Complaint Case No. 2948 of



2011, pending before the Court below at Katihar, as far as it relates to the petitioner, stands quashed.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	AFR
U	
T	

