

**(2017) 01 JH CK 0044**

**In the Jharkhand High Court**

**Case No :** Criminal Miscellaneous Petition No. 1269 of 2015

Sanjiv Barnwal @ Sanjiv Kumar

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

**Date of Decision :** 25-01-2017

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 482

Hindu Marriage Act, 1955 — Section 13B

Penal Code, 1860 (IPC) — Section 354, Section 498A, Section 498A 34

**Citation :** (2017) 2 JCR 346

**Hon'ble Judges :** Mr. Rongon Mukhopadhyay, J.

**Bench :** Single Bench

**Advocate :** Mr. Prabir Kumar Chatterjee, Advocate, for the Petitioners; Mr. Mukesh Kumar, A.P.P, for the Opposite Party No. 1; Mr. Sanjay Prasad, Advocate, for the Opposite Party No. 2

**Final Decision :** Disposed Off

## Judgement

Mr. Rongon Mukhopadhyay, J.—I.A. No. 6398 of 2016 :

Heard Mr. Prabir Kumar Chatterjee, learned counsel for the petitioners, Mr. Sanjay Prasad, learned counsel for the opposite party no. 2 and Mr. Mukesh Kumar, learned A.P.P. for the State.

2. In this application the petitioners have prayed for quashing the entire criminal proceeding in connection with C. P. Case No. 353 of 2014 including the order dated 11.07.2014 passed by the learned Judicial Magistrate 1st class, Dhanbad whereby and where under cognizance has been taken for the offence punishable under Sections 498(A)/354 of I.P.C. against the petitioner no. 6 and under Sections 498(A)/34 of the I.P.C. against rest of the petitioners.

3. It appears from the complaint petition that the marriage of the petitioner no. 1 and opposite party no. 2 was solemnised on 27.06.2012. Subsequently a car was demanded by the accused persons and for non-fulfilment of the said demand,

opposite party no. 2 has been assaulted. It has also been alleged that one of the accused tried to outrage her modesty and when she complained it to the family members then all the accused persons assaulted her and she was ousted from the matrimonial house in injured condition. After a complaint case was registered, an inquiry was conducted under Section 202 of Cr.P.C., pursuant to which cognizance was taken under Section 498(A)/354/34 of I.P.C. has been taken.

4. It has been stated by the learned counsel for the petitioners that during the pendency of the case, the matter has been compromised between the parties and pursuant to the said compromise, a bank draft of Rs. 3,50,000/- in the name of opposite party no. 2 has already been handed over to the opposite party no. 2. It has also been submitted that a suit under Section 13-B of the Hindu Marriage Act being Original Suit (T.M.S. No. 232 of 2016) has been filed which is still pending. It has also been submitted that in view of the compromise so arrived at, the entire criminal proceedings as against the husband and her in-laws deserves to be quashed.

5. Mr. Sanjay Prasad, learned counsel for the opposite party no. 2 has accepted the factum of compromise and has submitted that an amount of Rs. 3,50,000/- pursuant to the compromise has been received by the opposite party no. 2. It has been submitted that if the entire criminal proceedings is quashed, the opposite party no. 2 shall have no grievance against the petitioners.

6. On being questioned by this court on 19.01.2017, the learned counsel for the petitioner has taken instruction and has submitted that an application under Section 13-B of the Hindu Marriage Act is at the fag end and no final order could be passed in view of the impending transfer of the Presiding Officer of the Family Court, Dhanbad. It further appears that the evidences of the petitioners as well as of opposite party no. 2 have been recorded by the learned Principal Judge, Family Court, Dhanbad. The compromise petition reveals the end of dispute between the parties and the petitioner no. 1 and the opposite party no. 2 have decided to separate, which resulted in filing of the application under Section 13-B of the Hindu Marriage Act. The amount of settlement Rs. 3,50,000/- has also been received by the opposite party no. 2.

7. In view of the compromise so arrived at, continuation of criminal proceeding against the petitioners would be an act in futility. Accordingly, in view of the compromise and the fact which has been discussed above, this application is allowed and the entire criminal proceeding in connection with C. P. Case No. 353 of 2014 including the order dated 11.07.2014 passed by the learned Judicial Magistrate 1st class, Dhanbad is quashed.

I. A. No. 6398 of 2016 stands disposed of.