

(2017) 08 PAT CK 0038

In the Patna High Court

Case No : 32565 of 2014

Sudha Devi Wife of Late Krishna Prasad

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 30-08-2017

Acts Referred:

[Indian Penal Code, 1860](#), [Section 34](#), [Section 323](#), [Section 341](#), [Section 498\(A\)](#) - Acts done by several persons in furtherance of common intention - Punis

Citation : (2017) 08 PAT CK 0038

Hon'ble Judges : Rajeev Ranjan Prasad

Bench : SINGLE BENCH

Advocate : Tilak Sao, Binod Bihari Sinha, Amarjeet Choudhary, Sufiyan

Final Decision : Allowed

Judgement

1. Heard learned counsel for the petitioners, learned counsel representing the Opposite Party No. 2 and also learned Additional Public Prosecutor on behalf of the State.
2. Pursuant to the order dated 24.08.2017 passed by this Court, learned counsel for the petitioners has served copy of supplementary affidavit upon learned counsel representing the Opposite Party No. 2.
3. Sri Amarjit Choudhary, learned Advocate, on instruction from Sri Binod Bihari Singh, learned Advocate on Record on behalf of the Opposite Party No. 2 accepts the

factual position as stated in supplementary affidavit filed on behalf of the petitioners.

4. The petitioners moved this court for setting aside the order dated 14.05.2014 passed in Complaint Case No. 4420(C) of 2013 by learned Judicial Magistrate, 1st Class, Patna, by which he took cognizance of the offences under Sections 341, 323, 498(A) / 34 of the Indian Penal Code and issued summons to the accused including the present petitioners.

5. It appears that petitioner no. 1 is mother-in-law and petitioner nos. 2, 3 and 4 are said to be the married sister-in-law of the complainant/Opposite Party No. 2. After notice to complainant/Opposite Party No. 2, she appeared and agreed for mediation to resolve the ongoing dispute between the parties. The order for mediation was, in fact, passed by this Court in the Anticipatory Bail Application of the husband of the complainant vide Cr. Misc. No. 24532/2015, i.e., during the pendency of the present application. A copy of the memo of agreement signed by the husband of Opposite Party No. 2 as well as the Opposite Party No. 2 in presence of their respective learned advocates in mediation proceeding no. 702/2015 has been brought on record with the supplementary affidavit dated 22.02.2016 filed on behalf of the petitioners.

6. The terms and conditions agreed upon by the parties are reproduced hereunder for a ready reference : -

1. Both the parties i.e. husband namely Suraj Kumar and wife namely Rekha Raj have agreed to settle their dispute as one time settlement. 2. That the petitioner has agreed to pay a sum of Rs. 7,00,000/- (Rupees Seven Lakh only) by Account payee draft No. 866332 dated 27.01.2016 Union Bank with ornaments towards one time settlement amount as full and final settlement of all her claims for maintenance. Which has already been paid by the First party and received by the Second Party namely Rekha Raj. 3. Both the parties undertakes that they will withdraw all cases filed against each other pending in

any court. 4. That the parties have no grievance against each other they undertake not to make any claim with regard to their marital status in future and they are

free to live separately from each other. 5. That the Second Party have agreed that she will no claim any things property of the First party and his family members. 6. That the aforesaid contents of the agreement have been read over and explained in Hindi, which have fully been understood and accepted by the parties."

7. Learned counsel for the Opposite Party No. 2

admits that the agreement has been acted upon and the

Opposite Party No. 2 has already received a sum of Rs.

7,00,000/- (Rupees Seven Lakh only) and now she is not at all interested in prosecuting the complaint case.

8. This being the position, considering the fact that

the present case arises out of matrimonial discord between

the husband of Opposite Party No. 2 and Opposite Party No. 2

which has now been settled and both the parties have already

entered into the agreement as stated above and have acted

upon the same, these petitioners are mother-in-law and

married sisters-in-law of Opposite Party No. 2 and were

impleaded because of the said matrimonial dispute, further

continuance of the complaint case would not be in the interest of justice.

9. Thus, in view of the materials available on the record and the submission noted hereinabove, the order

taking cognizance impugned in the present application is

hereby quashed, and this application is allowed.