

**(2023) 08 JH CK 0022**

**In the Jharkhand High Court**

**Case No : Writ Petition (Criminal) No. 628 Of 2015**

Surendra Mahto

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

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**Date of Decision : 07-08-2023**

**Acts Referred:**

Indian Penal Code, 1860 — Section 498A  
Dowry Prohibition Act, 1961 — Section 3, 4

**Citation : (2023) 08 JH CK 0022**

**Hon'ble Judges : Sanjay Kumar Dwivedi, J**

**Bench : Single Bench**

**Advocate : Shubham Gurung, Deepankar Roy**

**Final Decision : Allowed/Disposed Of**

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## **Judgement**

Sanjay Kumar Dwivedi, J

1. Respondent no.2 has already appeared and in spite of appearance of respondent no.2, nobody has appeared on 23.03.2023 on behalf of respondent no.2 and, therefore, the matter was adjourned with a view to provide one more opportunity to respondent no.2. Today again on repeated calls, nobody has respondent no.2.

2. Accordingly, this matter is being heard in absence of respondent no.2.

3. Heard Mr. Shubham Gurung, learned counsel for the petitioner and Mr. Deepankar Roy, learned counsel for the State.

4. This petition has been filed for quashing the entire criminal proceeding in connection with Bero P.S. Case No.16/2015, corresponding to G.R. No.897 of 2015 registered under Section 498-A of the Indian Penal Code read with Sections 3 and 4 of the Dowry Prohibition Act, pending in the court of the learned Judicial Magistrate, Ranchi.

5. Subsequently, the order taking cognizance dated 09.08.2016 was challenged

by filing I.A. No.4166 of 2018 and vide order dated 23.03.2023, the said I.A. was allowed. In view of that, the order taking cognizance dated 09.08.2016 is also under challenge.

6. Learned counsel appearing for the petitioner submits that the petitioner filed Title Matrimonial Suit No.249/2012 before the Family Court, Bokaro and vide judgment/decreed dated 22.09.2013, the marriage was directed to be dissolved. The said judgment/decreed was challenged in F.A. No.120 of 2015 by respondent no.2 herein and the said F.A. was dismissed in terms of the compromise petition filed in the said F.A. by way of filing I.A. No.612 of 2017. He further submits that one of the terms and conditions in the said compromise was that respondent no.2 will withdraw all the civil and criminal case filed against the petitioner. He also submits that respondent no.2 has also received the amount of Rs.2,50,000/- in terms of the compromise and in spite of that, she is not coming forward before this Court although Vakalatnama has been filed on her behalf. He submits that the criminal case is still pending before the learned court and this Court may pass appropriate order.

7. Learned counsel for the State submits that it appears that the said Title Matrimonial Suit was decreed in favour of the petitioner and the said F.A., filed by respondent no.2 was dismissed in terms of the compromise.

8. In view of the above submission of the learned counsel for the parties, it appears that the case is arising under Section 498-A of the Indian Penal Code read with Sections 3 and 4 of the Dowry Prohibition Act. The Award dated 11.02.2017 passed in National Lok Adalat held at this Court is on the record, wherein, it has been recorded that the parties have agreed to sever their relationship upon payment of Rs.2,50,000/- for maintenance of the wife and her children by the petitioner-husband to the respondent no.2-wife herein and the petitioner-husband has already deposited the amount of Rs.2,50,000/- in the name of the Registrar General of this Court and cheque of Rs.2,50,000/- issued by the Registrar General of this Court was handed over to Smt. Arti Devi (respondent no.2 herein), in course of the settlement. The compromise petition filed in the form of I.A. No.612 of 2017 is also on the record, wherein, it has been disclosed in the terms and conditions of the said compromise that respondent no.2 will withdraw all the cases filed against the petitioner. The petitioner herein complied his part of the said compromise, however, respondent no.2 in spite of her appearance, has not complied her part of compromise to the effect that she will withdraw the cases filed against the petitioner, which further suggests that respondent no.2 is not interested in the matter and unnecessarily the matters, here as well as before the learned court, are pending.

9. In view of the above facts and considering that respondent no.2 in spite of her appearance, is not appearing before this Court and she has already received the amount of Rs.2,50,000/- in terms of the compromise and decree of divorce has been affirmed by the National Lok Adalat and further considering that to allow to continue the case will amount to abuse of process of law and also considering the

judgments passed by the Hon'ble Supreme Court in Gian Singh v. State of Punjab & another; [(2012) 10 SCC 303] and in Narinder Singh & others v. State of Punjab & another; [(2014) 6 SCC 466, the entire criminal proceeding in connection with Bero P.S. Case No.16/2015, corresponding to G.R. No.897 of 2015 including the order taking cognizance dated 09.08.2016, pending in the court of the learned Judicial Magistrate, Ranchi are quashed.

10. Accordingly, this petition is allowed and disposed of.

11. Interim order, if any, granted by this Court, stands vacated.