

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.86700 of 2024

Arising Out of PS. Case No.-84 Year-2016 Thana- SHASTRINAGAR District- Patna

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Amit Kumar Yadav @ Raju Yadav, Son of Chandi Yadav, Resident of
Hathauri, P.S. - Hayaghat, District - Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vijay Prasad, Son of Kashi Nath Prasad, Resident of Baruhi, P.S. - Sahaar,
District - Bhojpur, at present residing at 44/2 Mahesh Nagar, Patel Nagar,
LBS Nagar, P.S. - Shastri Nagar, District - Patna

... .. Opposite Party/s

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Code of Criminal Procedure, 1973—Section 482—Indian Penal Code, 1860—Sections 363 and 366A—Quashing of cognizance order—victim in her Statement under Section 164 clearly stated that she solemnized marriage with petitioner out of her own sweet will and living together happily—petitioner and victim having two children—victim had sworn affidavit in favour of petitioner, who is now her husband—compromise between the parties voluntarily in nature and thus by continuing with present proceeding before the court below would only amount to abuse of the process of the court of law—impugned order quashed and set aside—petition allowed.

(Paras 7 to 11)

(2022) 14 SCC 531—Relied upon.

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Appearance :

For the Petitioner/s : Mr. Samrendra Kumar Jha, Advocate
For the Opposite Party/s : Ms. Anita Kumari, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 20-02-2025

Heard learned counsel for the petitioner, learned
APP for the State and learned counsel appearing on behalf of
opposite party no.2.

2. The present application has been filed for
quashing the order taking cognizance dated 22.08.2016
passed by learned Judicial Magistrate, 1st Class, Patna in
connection with Shastri Nagar P.S. Case No.84 of 2016 (GR
No.1350 of 2016), whereby the learned jurisdictional
Magistrate has taken cognizance under Sections 363 and
366-A of the Indian Penal Code (in short ‘IPC’) against the
petitioner.

3. The prosecution case, in brief, as per



informant/O.P. No.2, namely, Vijay Prasad is that on 22.02.2016 at 2:00 PM, his daughter, namely, Nidhi Kumari @ Sonalika Verma went to attend her classes but, she did not returned till evening. Upon inquiry, some persons told that she was seen in the park near RVI Gas office. It is further alleged that his daughter left home with certificate of class-10th, Bank pass book, ATM, 15 gms gold jewelery and a mobile.

4. It is submitted by learned counsel that the present case was lodged under confusion by the father of victim, where the victim after recovery recorded her statement on 23.06.2016 stating therein that she went with petitioner out of her own sweet will without informing any family members and on next day, she solemnized marriage with petitioner in temple at Darbhanga. It is submitted that after the marriage, she was accepted by the parents of petitioner and when she called her parents after one and half months, she came to know that present kidnapping case was lodged against petitioner/husband, whereafter her father told her to come at her parental home, as some statement is



required with police and, as such, she came to the police and got her statement recorded on 22.06.2016.

5. It is further submitted that O.P. No.2/victim living happily with petitioner as wife and also having two children. It is pointed out that the victim herself is the deponent of this quashing petition.

6. The FIR was registered against unknown. As per statement of the victim, now the informant, who is none but her father also appears happy with this marriage.

7. Learned APP while opposing the quashing petition submitted that the offences alleged are non-compoundable but, fairly conceded out of statement of victim as recorded under Section 164 of the CrPC that she solemnized marriage with petitioner out of her own sweet will and living together happily.

8. At this stage, it would be apposite to reproduce relevant paragraph of the legal report of Hon'ble Supreme Court as available through **Ramgopal and Another vs. State of Madhya Pradesh [(2022) 14 SCC 531]**, which are as under:-



"19. We thus sum up and hold that as opposed to Section 320 CrPC where the Court is squarely guided by the compromise between the parties in respect of offences "compoundable" within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 CrPC or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 CrPC. Nonetheless, we reiterate such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind:

19.1. Nature and effect of the offence on the conscience of the society;

19.2. Seriousness of the injury, if any;

19.3. Voluntary nature of compromise between the accused and the victim; and

19.4. Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations."

9. Now, coming to the fact of this case, it appears that no suspicion even raised through FIR against the



petitioner with whom the victim went on her own and solemnized marriage out of her own sweet will. They are living happily together having two childrens. The victim had sworn affidavit in favour of petitioner, who is now her husband. It appears that the compromise between the parties voluntarily in nature and thus by continuing with present proceeding before the court below would only amount to abuse of the process of the court of law.

10. Accordingly, the impugned order taking cognizance dated 22.08.2016 passed by learned Judicial Magistrate, 1st Class, Patna in connection with Shastri Nagar P.S. Case No.84 of 2016 (GR No.1350 of 2016) is hereby quashed and set aside.

11. The application stands allowed.

12. Let a copy of this judgment be communicated to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	01-03-2025
Transmission Date	01-03-2025

