

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85396 of 2023

Arising Out of PS. Case No.-160 Year-2020 Thana- KASIMBAZAR District- Munger

1. Rekha Mishra Wife of Sanjeev Mishra Resident of Mohalla Kali Sthan V.D. Mishra Road, Patna City, P.S. Chowk, District Patna.
2. Sanjeev Mishra, Son of Lakshman Ji Mishra @ Lakshman Mishra, Resident of Mohalla Kali Sthan V.D. Mishra Road, Patna City, P.S. Chowk, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. Kumari Arunima Wife of Arun Kumar Mishra and Daughter of Surendra Chandra Pathk, Resident of Village Puraniganj, Jamalpur Road, P.s. Kashim Bazar, P.O. Munger, P.s Munger, District Munger.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Nikhil Kumar Agarwal, Advocate Mr.Aditi Hansaria, Advocate Mr.Keshav Bharadwaj, Advocate
For the Opposite Party/s :		Mr.Chandra Sen Prasad Singh,APP
For the Informant	:	Mr.Rajesh Kumar Dubey, Advocate

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL JUDGMENT

Date : 23-06-2026

Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. This application has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) read with the corresponding saving provisions, seeking quashing of the cognizance order dated 14.09.2020 passed by the learned Sub-Divisional Judicial Magistrate, Munger in Kasim Bazar P.S. Case No. 160 of 2020, whereby cognizance was taken under Sections 341, 323, 379, 498A read with Section 34 of the Indian Penal Code



and Sections 3 and 4 of the Dowry Prohibition Act, 1961 against the petitioners and others.

3. The petitioners are the nanad (sister-in-law) and nandoi (husband of the sister-in-law) of the informant, Opposite Party No. 2. Petitioner No. 1, Rekha Mishra, is a practicing Advocate at the Civil Court, Patna City since 1990, and petitioner No. 2, Sanjeev Mishra, is her husband. The records would show that both petitioners have been residing at Mohalla Kali Sthan, V.D. Mishra Road, Patna City, which admittedly is approximately 17 kilometres away from the matrimonial home of the informant. It has come out in the petition, and is an admitted situation, that the petitioners had not visited the matrimonial home of the informant since as far back as 1998. They maintain an entirely separate mess and household. The FIR itself records that after certain family interventions, the nanad and nandoi left and were residing on rent nearby, though it is stated they continued visiting. The prosecution story, taken at its face value, thus concedes the fact of separate living.

4. The informant's written report dated 01.05.2020, which forms the basis of Kasim Bazar P.S. Case No. 160 of 2020 registered on 22.06.2020, alleges that after her marriage on 06.05.2007 with Arun Kumar Mishra, her in-laws, including the



petitioners herein, subjected her to torture and cruelty in various ways. The allegations against the petitioners in the FIR and the charge sheet are that the nanad and nandoi engaged in womanising, that the nanad was like a call girl, and that they aided and abetted in the general atmosphere of harassment. The husband of the informant died on 27.04.2020, and the written report was lodged a mere four days thereafter. The charge sheet bearing No. 177/2020 dated 31.07.2020 was submitted against eight accused persons including the petitioners.

5. The records would show that the allegations against petitioner Nos. 1 and 2 are entirely general and omnibus in character, bereft of any specific act attributed to either of them with reference to date, time or circumstance. The *nanad* and *nandoi* are sought to be roped in on the strength of bald, sweeping and morally coloured assertions, such as the *nanad* being of questionable character and the two of them engaging in womanising, which do not constitute any ingredient of the offences alleged and are plainly absurd. It is an admitted situation that the petitioners have been residing separately, at Patna City, approximately 17 kilometres from the matrimonial home, and had not visited that home since 1998, a circumstance that appears from the prosecution's own case. No specific demand of dowry, no



individual act of assault, no particular date of harassment is attributed to the petitioners anywhere in the FIR or the charge sheet. The informant was married in 2007 and the FIR was lodged in 2020, thirteen years later, merely four days after her husband's death, without any explanation for the silence during his lifetime. The law on this aspect is well settled. In *Abhishek vs. State of Madhya Pradesh* reported in *[(2023) INSC 779]*, the Hon'ble Supreme Court, in a factually similar situation where the brother-in-law of the informant was residing separately and no specific role was attributed to him, quashed the proceedings, holding that general and omnibus allegations, which do not spell out individual culpability with particularity, cannot be permitted to drag accused through the rigours of criminal trial. Sister of High Court in Cr. Misc. No. 16948 of 2023 and Cr. Misc. No. 19092 of 2023, arising from the very same FIR involving the remaining accused, has by a considered judgment dated 05.02.2026 quashed the cognizance order after noting that the allegations are general and omnibus, that the FIR does not mention specific dates or time periods, that the petitioners therein lived separately, and that the prosecution appears to have been set in motion for extraneous reasons. The situation of the present petitioners is, if anything, more remote, they having not visited the matrimonial home for over two



decades. Allowing the prosecution to continue in these circumstances would amount to an abuse of the process of this Court.

6. In the result, this application is allowed. The cognizance order dated 14.09.2020 passed by the learned Sub-Divisional Judicial Magistrate, Munger in Kasim Bazar P.S. Case No. 160 of 2020 and all proceedings arising therefrom stand quashed insofar as petitioner Nos. 1 and 2 are concerned.

7. Accordingly, the present petition stands allowed.

(Ansul, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
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