IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 38 of 2023
---

1. Smt. Shanti Devi @ Shanti Srivastava, aged about 77 years, wife of Late Birendra Narayan Pandey;
2. Paresh Kumar, aged about 47 years, son of Late Birendra Narayan Pandey;

   Both resident of House of Upendra Nath Sharma, Postal Colony No.2, Near Rajendra Stadium, P.S.-Bhagwan Bazar, P.O.-Bhagwan, District-Saran (Bihar)

... ... Petitioners

Versus

1. The State of Jharkhand
2. Ashu Verma, wife of Dewesh Kumar, daughter of Late Onkar Prasad Verma, resident of Sardhanand Road (Birsa Seva Sansthan), P.O.-G.P.O., P.S.-Kotwali, District-Ranchi (Jharkhand)

…… Opp. Parties

With

Cr. Revision No. 1303 of 2022
---

1. Mrs. Aparna Atul, aged about 49 years, wife of Brajesh Chandra Atul, daughter of Late Birendra Narayan Pandey.
2. Brajesh Chandra Atul, aged about 50 years, son of Late Tribhuvan Nath Verma, Inspector C.B.I., posted at Kolkata.

   Both resident of Salt Lake City, Sector-I, Kolkata, P.O. + P.S.-Kolkata (West Bengal).

... ... Petitioners

Versus

1. The State of Jharkhand
2. Ashu Verma, wife of Devesh Kumar, daughter of Late Omkar Prasad Verma, resident of Sardhanand Road (Birsa Seva Sansthan), P.O. G.P.O., P.S.-Kotwali, District-Ranchi (Jharkhand)

…… Opp. Parties

PRESENT

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioners : Mr. Rajeeva Sharma, Sr. Advocate
: Ms. Rita Kumari, Advocate
: Mr. Om Prakash, Advocate
For the State : Mr. Navin Kr. Singh, A.P.P.
: Ms. Ruby Pandey, A.P.P.
For the O.P. No. 2 : Mr. Rishu Ranjan, Advocate

J UDGMENT

Dated: 12th June, 2026

By court:- Heard learned counsel for the petitioners and learned A.P.P. as well as learned counsel for the Opposite Party No. 2 in both these cases.

2. Both the instant Criminal Revisions are directed against the order dated 04.08.2022 passed by Sub-Divisional Judicial Magistrate, Ranchi in Complaint Case No. 1907 of 2008, whereby and whereunder, an application under Section 245 Cr.P.C. for discharge of the accused (petitioners) has been rejected.

Factual Matrix:-

3. Factual matrix giving rise to this revision is that complainant/O.P. No. 2 was married with one Dewesh Kumar (accused no. 1) on 22.04.2003 according to Hindu rites and rituals. After marriage she resided with her husband but after few days her husband and other in laws started demanding of Rs. 3 lacs from the mother of complainant (O.P. No. 2) out of which Rs. 2 lacs was given by her mother. It was further alleged that her husband and in-laws

started the demand of dowry to the complainant's mother through the complainant. In the month of June 2007, accused No. 1 came to Ranchi with complainant and demanded a flat in Delhi from the mother of complainant. It is further alleged that ornaments of complainant are forcibly taken by her in-laws and have taken several bank drafts between 15.03.2003 to February 2006. Due to continuous illegal demand of dowry and mental torture, complainant had filed Complaint Case No. 1907 of 2008 on 19.08.2008 for offence under Section 498A, 323, 384 and 120B of I.P.C.

4. After conducting inquiry, the petitioners were summoned for the offence under Sections 498A/323/384/120B of the I.P.C. The petitioners appeared before and charge evidence was taken by the concerned Court. The petitioners filed an application under Section 245 of the Cr.P.C. dated 18.07.2022. The learned Trial Court after hearing the arguments of both parties, dismissed the application and directed the petitioners to appear physically on 26.09.2022 for framing of charge for the offence under Sections 498A of the IPC.

Submission on behalf of the Petitioners:-

5. Learned counsel for the petitioners has submitted that the learned Court below has miserably failed to decide the discharge application in view of stringent provisions contained in Section 244 and Section 245 of the Cr.P.C. and passed the impugned order in mechanical manner. Therefore, procedure adopted by the learned Trial Court is absolutely unwarranted under law and illegal finding has been recorded by the learned Trial Court which is fit to be set aside

and this revision may be allowed.

Submission on behalf of the Opp. Parties:-

6. On the other hand, learned counsel for the opposite party no. 2 assisted with the learned A.P.P. has opposed the aforesaid contentions raised on behalf of the petitioners and has submitted that the learned Trial Court has very wisely and aptly considered the overall materials available against the petitioners as per before charge evidence adduced by the complainant. At this stage of the proceeding, truth or falsity of the allegation could not be entered into. Similarly, probable defence of the accused persons is also not relevant at this stage. Hence, the impugned order does not suffer from any illegality calling for any interference in this revision which is fit to be dismissed.

Analysis, discussion and reasons:-

7. In view of rival contentions of the parties, the only point for consideration in this revision arises as to "whether the impugned order suffers from any illegality or infirmity calling for any interference?"

8. Before dwelling upon adjudication of the above point, it is pertinent to extract the relevant provisions of Sections 244 and 245 Cr.P.C. for better appreciation of the matter, which is as under :-

> *"**244. Evidence for prosecution**- (1) When, in any warrant-case instituted otherwise than on a police report, the accused appears or is brought before a Magistrate, the Magistrate shall proceed to hear the prosecution and take all such evidence as may be produced in support of the prosecution.*
> *(2) The Magistrate may, on the application of the prosecution, issue a summons to any of its witnesses directing him to attend or to produce any document or other thing.*

> ***245. When accused shall be discharged-*** *(1) If, upon taking all the evidence referred to in section 244, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.*
>
> *(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.*

9. From bare perusal of aforesaid provision, a duty is cast upon the learned Trial Court to take into consideration the overall evidence adduced before charge under Section 244 of the Cr.P.C. by the complainant and if the same remains un-rebutted, whether conviction of the accused could be warranted, is the test for framing charge against the accused persons. Therefore, while deciding the discharge application, the concerned Court is bound to pass the rigour of the aforesaid provision.

10. It appears that while rejecting the discharge application, the learned Trial Court has observed as under:-

> "इस तरह उपरोक्त कुल तथ्यों एवं परिस्थितियों में तथा अभिलेख में उपलब्ध साक्ष्य सामग्री एवं उपर में किये गये विचार विमर्श के आलोक में मैं इस निष्कर्ष पर पहुँचता हूँ कि आवेदक/ अभियुक्त गण 1. शांति देवी 2. परेश कुमार 3. ब्रजेश चन्द अतुल एवं 4. अपर्णा अतुल के विरूद्ध संज्ञान ली गयी धाराओं धारा 498ए भा० दं० वि० के अन्तर्गत आरोप गठन किये जाने का पर्याप्त आधार एवं सामग्री उपलब्ध है। तद्नुसार आवेदक / अभियुक्त गण 1. शांति देवी 2. परेश कुमार 3. ब्रजेश चन्द अतुल एवं 4. अपर्णा अतुल की ओर से दाखिल उन्मोचन के आवेदन दि० 18.07.2022 में कोई बल नहीं पाया

जाता है और वह खारिज किये जाने योग्य प्रतीत होता है। तद्नुसार आवेदक/ अभियुक्तों की ओर से दि० 18.07.2022 को दाखिल उन्मोचन के आवेदन को न्यायहित में खारिज किया जाता है।"

11. From bare perusal of the reasons recorded by the learned Trial Court, it appears that the stringent provision of Section 245 has not been taken into account which mandates that the entire evidence taken under Section 244 Cr.P.C. would be of such a degree and nature that if remains unrebutted, it would warrant conviction of the accused for the proposed offence levelled against them. Therefore, provision in warrant trial Complaint case for discharge of the accused, the prosecution evidence must be considered at higher pedestal as required by law. Merely, prime facie case and ground for presuming that the accused has committed such offence cannot form basis of framing charge in a complaint case. Therefore, apparently the impugned order does not appear to be in consonance with the provision under Section 245 of the Cr.P.C. which was never considered. The Court must observe as to how offence under Section 498 A of the I.P.C. is constituted on the basis of evidence before charge, if the same remains unrebutted.

12. Therefore, I find substance in the contentions raised on behalf of the petitioners and merits in this revision application. Accordingly, the impugned order dated 04.08.2022 passed by the learned Sub-Divisional Judicial Magistrate, Ranchi in Complaint Case No. 1907/2008 is hereby set aside and the matter is remitted back to the concerned Trial Court to pass a fresh order in light of the aforesaid

observations and provisions of law after providing reasonable opportunity of hearing to both parties without granting unnecessary adjournments.

13. Accordingly, these Criminal Revisions are **Allowed.**

14. Pending I.A., if any, also stands disposed of.

15. Let a copy of this order be sent through FAX to the concerned Court for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated:12/06/2026
Rashmi/NAFR
Uploaded on 22/06/2026