

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.16716 of 2016**

Arising Out of PS. Case No.-2043 Year-2013 Thana- NAWADAH COMPLAINT CASE  
District- Nawada

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1. Chandan Kumar, son of Paras Nath Prasad
  2. Paras Nath Prasad son of Nand Kishore Prasad Both R/o Mohalla- Rajendra Nagar, Nawada, P.S. Nawada, Distt- Nawada.
  3. Ranjeet Kumar son of Ashok Pd. @ Jai Chand Prasad
  4. Manjit Kumar son of Ashok Pd. @ Jai Chand Prasad
  5. Sanjit Kumar @ Sanjit Kr. Verma son of Ashok Pd. @ Jai Chand Prasad
  6. Niranjana Kumar @ Nikhil son of Ashok Pd. @ Jai Chand Prasad
  7. Urmila Devi W/o Ashok Pd. @ Jai Chand Prasad Petitioner no.3 to 7 are R/o Mohalla- Mansur Nagar, Bari Pahari, Biharsharif, P.S.- Sohsarai, Dist- Nalanda.

... .. Petitioner/s

Versus

1. State of Bihar
2. Kamla Devi W/o Late Deevndra Pd. R/o Mohalla- Panchu Hasua, P.S.- Hasua, Distt- Nawada.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Birendra Kumar, Advocate  
For the Opposite Party/s : Mr. Ashok Kr.Singh 1, APP

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL JUDGMENT**

**Date : 15-04-2024**

1. This application preferred for quashing the order dated 29.06.2015 passed by learned J.M. 1<sup>st</sup> Class, Nawada in complaint case No. 2043/2013 whereby and where under cognizance has been taken for the offence under Sections 323, 380/34 of Indian Penal Code (in short "IPC") against petitioners.



2. The prosecution case in brief is as follows:

(i) That one Kamla Devi w/o late Devendra Pd. filed this complaint alleging precisely therein interalia that accused Urmila Devi (Petitioner No.7) happens to be mother-in-law of her son late Shankar Prasad and others accused persons are her son and relatives.

(ii) That, daughter-in-law/Sangita Devi wife of late Shankar pd. filed a false complaint case No. 455/12 with intention to get partition in land property. Further complainant alleged and stated in course of granting anticipatory bail that complainant gave affidavit before Hon'ble High court that she is ready to give her share.

(iii) That complainant further stated that on the basis of written affidavit filed before Court as to agree to give the share of her daughter-in-law, provisional bail was confirmed by the trial court.

3. Complainant further stated that her daughter-in-law Sangita Devi took her share and gave the house for rent and used to live in her parental



village. It is also alleged by complainant that she was also pressurized by accused persons to grab Rs. 2 lacs cash but she refused. It is further alleged that on the date of occurrence complainant while inside her house alongwith her sons, suddenly, all accused persons entered into the house and on the point of pistol all families along with complainant were taken into custody and thereafter, accused Chandan Kumar (Petitioner no.1) snatched the bunch of key from complainant and also assaulted her by his fist. After that she also alleged that accused Urmila Devi, Paras nath and Niranjana Kr. took them in their custody and other accused persons took away the gold Jewellery of about 10 Bhar and silver Jewellery of about 40 Bhar and sari clothe worth Rs. 4 lacs and cash of Rs. 10000/- and a soni camera worth Rs. 20000/-. Complainant further alleged that accused Urmila Devi snatched a golden chain of 1/2 bhar (gram) worth of Rs. 45000/-.

4. Learned counsel appearing for the



petitioners submitted that initially a complaint case bearing no. 455 of 2012 dated 28.04.2012 was filed by Sangita Devi, daughter-in-law of O.P. No. 2 and daughter of petitioner no. 7, where O.P. No. 2 and other family members, namely, Sandip kumar, Jamuna Prasad both sons of O.P. No. 2 and Priti Kumari, daughter of O.P. No. 2 were arrayed as accused persons, for the offences punishable under Sections 498-A, 379, 302, 313/34 of IPC, where learned Magistrate on the basis of material available on records took cognizance for the offences under Section 498-A, 379, 313/34 of IPC. It is submitted that out of said enmity, present complaint case was filed with harassing attitude out of ulterior and oblique motive against the parental family members and relative of daughter-in-law, namely, Sangita Devi by O.P. No. 2. It is further submitted that the allegation is appearing very much general and omnibus against petitioners and same appears out of matrimonial discord and as such, the present quashing petition is fit to be



quashed and set aside.

5. In support of his submissions, learned counsel relied upon the legal reports of the Hon'ble Supreme Court as reported in the matter of **Abhishek vs. State of Madhya Pradesh** reported in **2023 SCC OnLine SC 1083**.

6. Despite proper service of notice, opposite party no. 2, failed to join the present proceedings.

7. Learned APP appearing for the State while opposing the application submitted that the core issue of litigation between the parties is the share of property after the sad demise of husband of Sangita Devi, namely, Late Shankar Kumar, son of O.P. No. 2. It is submitted that said issue was resolved in terms of order dated 9<sup>th</sup> of January, 2013 as passed in Cr. Misc. No. 41774 of 2012, when O.P. No. 2 and her family members, who were arrayed as accused, approached this court for their bail in complaint case no. 455 of 2012 as mentioned above. It is further pointed out by learned



APP that despite getting share in husband's property, mother of daughter-in-law of O.P. No. 2, namely, Urmila Devi, who is petitioner no. 7 lodged a case against O.P. No. 2 and her family members in year 2013 again, which has been registered as Hisua P.S. Case No. 70/2013, subsequent to that one another case was registered by the daughter of petitioner no. 7 against O.P. No. 2, which has been registered as Hisua P.S. Case No. 169/2014. It is further submitted that allegation against petitioners is very specific *qua* theft. It is also submitted that the petitioner no. 7 made her daughter instrumental to file repeated criminal cases even after getting her share in property with respect to her deceased husband and therefore, the fact of the present case cannot be construed in the manner as it was dealt by Hon'ble Apex Court through its various leading judgments like, **Arnesh Kumar Vs. State of Bihar and Another** reported in **(2014) 8 SCC 273**.

8. For better understanding of fact, it would



be apposite to reproduce order dated 09.01.2013 as passed in Cr. Misc. No. 41774 of 2012, which is as under:

*"Heard learned counsels for the petitioners, the State and the complainant.*

*The petitioners being mother, sister, brother and co-villager of the deceased husband of the complainant are apprehending their arrest in a case registered for the offences punishable under Sections 498A, 379 and 313/34 of the Indian Penal Code.*

*The accusation is of torture. It is alleged that the husband of the complainant is dead and after his death torture is being perpetuated. The petitioners filed supplementary affidavit to the effect that they are ready to allow the complainant to live in the matrimonial house or in alternative they ready to give the complainant's husband share in the in-laws property.*

*The offer is acceptable to the learned counsel appearing for the complainant.*

*Considering the aforesaid facts, let the above named petitioners be released on anticipatory bail in the event of their arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bond of Rs.10,000/- (Ten thousand) each with two sureties*



*of the like amount each to the satisfaction of learned CJM, Nawada in connection with Complaint Case No. 455 of 2012, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.*

*The bail bonds of the petitioners shall be accepted on filing affidavit that the petitioners will give the share of the complainant's husband in the in-laws property and the said affidavit will be transmitted to the concerned police station by the learned court below."*

9. It would be apposite to reproduce relevant Paragraph Nos. 12, 13, 14 ,5, 16 & 17 of **Abhishek Case (supra)**, which read as:-

**12.** *The contours of the power to quash criminal proceedings under Section 482 Cr.P.C. are well defined. In V. Ravi Kumar v. State represented by Inspector of Police, District Crime Branch, Salem, Tamil Nadu [(2019) 14 SCC 568], this Court affirmed that where an accused seeks quashing of the FIR, invoking the inherent jurisdiction of the High Court, it is wholly impermissible for the High Court to enter into the factual arena to adjudge the correctness of the allegations in the complaint. In Neeharika Infrastructure (P). Ltd. v. State of Maharashtra [Criminal Appeal No. 330 of 2021, decided on 13.04.2021], a 3-Judge Bench of this Court elaborately considered the scope and extent of*



*the power under Section 482 Cr.P.C. It was observed that the power of quashing should be exercised sparingly, with circumspection and in the rarest of rare cases, such standard not being confused with the norm formulated in the context of the death penalty. It was further observed that while examining the FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made therein, but if the Court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by this Court in R.P. Kapur v. State of Punjab (AIR 1960 SC 866) and State of Haryana v. Bhajan Lal [(1992) Supp (1) SCC 335], the Court would have jurisdiction to quash the FIR/complaint.*

**13.** *Instances of a husband's family members filing a petition to quash criminal proceedings launched against them by his wife in the midst of matrimonial disputes are neither a rarity nor of recent origin. Precedents aplenty abound on this score. We may now take note of some decisions of particular relevance. Recently, in Kahkashan Kausar alias Sonam v. State of Bihar [(2022) 6 SCC 599], this Court had occasion to deal with a similar situation where the High Court had refused to quash a FIR registered for various offences, including Section 498A IPC. Noting that*



*the foremost issue that required determination was whether allegations made against the in-laws were general omnibus allegations which would be liable to be quashed, this Court referred to earlier decisions wherein concern was expressed over the misuse of Section 498A IPC and the increased tendency to implicate relatives of the husband in matrimonial disputes. This Court observed that false implications by way of general omnibus allegations made in the course of matrimonial disputes, if left unchecked, would result in misuse of the process of law. On the facts of that case, it was found that no specific allegations were made against the in-laws by the wife and it was held that allowing their prosecution in the absence of clear allegations against the in-laws would result in an abuse of the process of law. It was also noted that a criminal trial, leading to an eventual acquittal, would inflict severe scars upon the accused and such an exercise ought to be discouraged.*

**14.** *In Preeti Gupta v. State of Jharkhand [(2010) 7 SCC 667], this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. It was observed that the Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, as allegations*



*of harassment by husband's close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection.*

**15.** *Earlier, in Neelu Chopra v. Bharti [(2009) 10 SCC 184], this Court observed that the mere mention of statutory provisions and the language thereof, for lodging a complaint, is not the 'be all and end all' of the matter, as what is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in the commission of that offence. These observations were made in the context of a matrimonial dispute involving Section 498A IPC.*

**16.** *Of more recent origin is the decision of this Court in Mahmood Ali v. State of U.P. (Criminal Appeal No. 2341 of 2023, decided on 08.08.2023) on the legal principles applicable apropos Section 482 Cr.P.C. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 Cr.P.C. or the extraordinary jurisdiction under Article 226 of the Constitution, to get the FIR or the criminal proceedings quashed, essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with*



*the ulterior motive of wreaking vengeance, then in such circumstances, the High Court owes a duty to look into the FIR with care and a little more closely. It was further observed that it will not be enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not as, in frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection, to try and read between the lines.*

**17.** *In Bhajan Lal (supra), this Court had set out, by way of illustration, the broad categories of cases in which the inherent power under Section 482 Cr.P.C. could be exercised. Para 102 of the decision reads as follows:*

*"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to*



*secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*

*(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

*(2) Where the allegations in the first informant report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*

*(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

*(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*

*(5) Where the allegations made in the*



*FIR or complaint are so absurd and inherently improbable on the basis of which no prudent persons can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

*(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*

*(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."*

10. It would be apposite to reproduce relevant Paragraph No. 4 of **Arnesh Kumar Case (supra)**, which reads as:-

*"4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A IPC was introduced with avowed object to combat the menace of harassment to a woman at the*



*hands of her husband and his relatives. The fact that Section 498-A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In quite a number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested. In the said case, the Supreme Court has cautioned the courts with regard to proceeding against in-laws and distant relatives of the husband of the wife involved in the offence under Section 498-A of the IPC and other relevant offences."*

11. By considering the conduct of petitioner no. 7 and also that of her daughter Sangita Devi, daughter-in-law of O.P. No. 2 as to harass O.P. No. 2 and family members by lodging repeated criminal cases even after getting share in property of O.P. No. 2 after death of son of O.P. No.2/son-in-law of petitioner no. 7 and also by taking note of specific allegation of theft *qua* petitioners, this court is of opinion that proceeding in



issue before trial court is not a fit case to be quashed.

11. Accordingly, the present petition stands dismissed.

12. TCR (Trial Court Records), if any, be returned to learned trial court alongwith the copy of this judgment.

**(Chandra Shekhar Jha, J)**

Archana/-

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