

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38274 of 2015

Arising Out of PS. Case No.-20 Year-2012 Thana- MAHILA P.S. District- Bhojpur

1. Shyam Nath Singh @ Shyam Khurana and Ors son of Late Amar Nath Singh, R/o Mohalla- Maharajganj Krishnapatti, P.S. Jamuai, District- Jamuai presently Assistant Professor, Millat College, Parsa Godda, Jharkhand.
2. Anita Thakur @ Anita Khurana, W/o Shyam Nath Singh @ Shyam Khurana R/o Mohalla- Maharajganj Krishnapatti, P.S. Jamuai, District- Jamuai presently Teacher, Mount Carmel High School, Bhagalpur Both presently residing at C/o Dr. Nawal Kishore Sinha, Katahal Bari Near Kali Sthan, P.S- Barari, Dist. Bhagalpur.
3. Nirmala Arora @ Nirmala Rani @ Nirmala Devi W/o Mr. Tarun Kumar, R/o 38, New Punjabi Colony, P.S. Gardanibagh, Dist. Patna.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Ravindra Kumar, Advocate
For the Opposite Party/s :	Mrs. Sucheta Yadav, APP
For the Legal aid council:	Mrs. Archana Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 15-03-2024

1. Heard Mr. Ravindra Kumar learned counsel
appearing on behalf of the petitioners, learned APP Mrs.
Sucheta Yadav appearing on behalf of State and learned
counsel Mrs. Archana Sinha appearing on behalf of



opposite party no. 2 through Patna High Court Legal Service.

2. The present quashing petition has been preferred against the order dated 14.12.2013 passed by learned Sub-Divisional Judicial Magistrate, Bhojpur at Ara, in connection with G.R. No. 2195 of 2012 having Tr. No. 3669/12 arising out of Mahila (Bhojpur) P.S. Case No. 20/2012, where learned trial court took cognizance for the offence punishable under section 498A/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

3. That the prosecution story, in brief, is that Ekta Khurana, informant, lodged a written report before the Officer In charge of Mahila police station, Ara stating inter alia that her marriage fixed at Ara, where as per settlement terms, it was solemnized at Hotel Maruya, Patna, which is a costly hotel, due to which, financial condition of her father deteriorated. Her father gave lacs of rupees in cash, gifts and clothes in marriage. After



solemnization of marriage, she came back to Ara, where her husband and in-laws started demanding Rs. 9 lac for purchase of costly items and car. After intervention of her parents and other businessman, she was taken to her matrimonial home at 'Malepur, Jamuai, where accused persons started teasing for the car. If they are not able to give necklace he may give Rs. 9 lacs. She pleaded inability of her father due to expenditure of huge money in marriage but they tortured and assaulted her. They did not provide her even meal. They started giving great physical and mental tension and started saying that her father is a business man and has no paucity of money. She communicated the aforesaid fact to her father telephonically, upon which he arrived and pacified the matter and she was kept well for some days. They again started pressurizing for the car, due to which she returned back to Ara along with her father. When the accused persons refused to take her back then she came back to her matrimonial home along with her father. She



became pregnant and was being treated at Jamuai there also she was being threatened that they will not keep her if she will give birth to female child. She gave birth to a male child at Kurji Hospital, Patna but her husband or any family member did not come there to meet her. She started suffering mentally but with the intervention of well wishers they took her to Jamuai but situation did not improved and they started planning to kill her. On 03.12.2011 she fled away along with her son and reached at Uncle's house at Patna and from where her father took her to Ara. Her father and other well wishers went to Jamuai to settle the issue but they are adamant for Rs. 9 Lacs and she also got acquainted that they are planning to solemnize another marriage of her husband.

4. It is submitted by learned counsel that petitioner nos. 1 and 2 are cousin father-in-law and mother-in-law and petitioner no. 3 is aunt in law (Phua of the husband of informant), living separately, having no connection with daily and domestic affairs with the



opposite party no. 2/informant and her family. It is submitted that implication is only out of relation as petitioner no. 1 is the full brother of father-in-law of opposite party no. 2, It is submitted that the allegation as to raise demand for the car is appearing very much general and omnibus against petitioners, who joined the family of opposite party no. 2, only for the purpose of attending the marriage. It is submitted that thrust of allegation *qua* physical and mental cruelty and also regarding illicit relation is specifically available against husband of opposite party no. 2.

5. Learned APP duly assisted by learned counsel appearing on behalf of opposite party no. 2 while opposing the application submitted that petitioners being cousin in-laws actively participated in the occurrence.

6. It would be further apposite to re-produce para 102 of the ***State of Haryana and Ors. Vs. Bhajan Lal and Ors.,*** reported in ***1992 Supp (1) Supreme Court Cases 335,*** which reads as under:



"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 nay 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.”

7. Hon'ble Apex Court in Arnesh Kumar Vs.

State of Bihar and Another reported in (2014) 8

SCC 273 has been pleased to observe that 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 a quite 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. This High Court in ***Brijesh Das @ Brijesh Kumar Das & Ors. Vs. The State of***



Bihar & Anr. reported in 2012(2) PLJR 545 has also held that there is specific allegation made against husband and no statement that other relatives assaulted the complainant. Allegations made against petitioner nos. 2 to 6 are vague and omnibus allegation made against the relatives of the husband, would not be sufficient to put them on a trial and set aside the cognizance order against the petitioner nos. 2 to 6 who happen to be in-laws of the complainant.

8. In view of aforesaid factual and legal submission, as allegation *qua* raising demand of the car is appearing very general and omnibus against petitioners, who are none but but the cousin in-laws, living separately, and as such, the case of petitioners are covered under guideline no. 5 and 7 of ***Bhajan Lal's Case (supra)***, accordingly, order of cognizance dated 14.12.2013 passed by learned Sub-Divisional Judicial Magistrate, Bhojpur at Ara, with all its consequential proceedings *qua* aforesaid petitioners are hereby



quashed and set aside.

9. The application stands allowed.

10. Let a copy of this order be sent to learned
Trial Court, immediately.

(Chandra Shekhar Jha, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	22.03.2024
Transmission Date	22.03.2024

