

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40003 of 2015

Arising Out of PS. Case No.-73 Year-2013 Thana- UDAKISHUNGANJ District- Madhepura

1. Nitu Devi, W/o Late Jagdish Mandal
2. Amod Kumar @ Amod Mandal, S/o Late Jagdish Mandal
3. Babita Devi, W/o Shri Manoj Mandal
4. Manoj Mandal S/o Late Jagdish Mandal
All R/o Dharhara P.S.- Banmanakhi, District-Purnea.
5. Chandrama Devi @ Charan Devi, W/o Shri Satyanarayan Mandal
6. Satya Narayan Mandal, S/o Late Sundar Mandal
Both R/o Mohinai,P.S.- Sarsi, District Purnea.

... .. Petitioners

Versus

1. The State of Bihar
2. Ranju Devi, W/o Pramod Mandal, D/o Shri Ram Deo Mandal, R/o Village-
Raghunathpur Pakaiya,P.S.- Udakishunganj, District -Madhepura.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mrs. Purna Rishi, Advocate Mr. Patanjali Rishi, Advocate
For the State	:	Mr. Madhuranand Jha, APP
For the O.P. No.2	:	Mr. Anant Kumar-1, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 01-04-2024

Heard learned counsel for the petitioners and
learned APP appearing on behalf of the State duly
assisted by learned counsel for the opposite party no.2.

2. The present application has been filed for
quashing of the order taking cognizance dated
15.07.2013 passed by learned Sub-Divisional Judicial



Magistrate, Udakishunganj, Madhepura in G.R. No.624 of 2013, Tr. No. 3958 of 2013 arising out of Udakishunganj P.S. Case No.73 of 2013, whereby the learned Jurisdictional Magistrate has taken cognizance for the offences punishable under Sections 341, 342, 323, 452, 354, 509, 498-A of the Indian Penal Code (for short 'IPC') and Sections 3 and 4 of the Dowry Prohibition Act against the petitioners and others.

3. The prosecution case, in brief, is that the informant/opposite party no.2, namely, Ranju Devi married to one Pramod Mandal on 19.07.2009 in accordance with Hindu Rites and Rituals at Sinheswar Temple and during the marriage, her father gave sufficient gifts including cash, ornaments, utensils and cloths worth Rs.5,00,000/- as per his capacity and thereafter, the informant joined her matrimonial home, where she remained normal for two months. Thereafter, the in-laws of the informant started to torture her. After living at her matrimonial home for about four months,



her father took her to maternal home. After one month, elder brother-in-law of the informant, namely, Manoj Mandal brought her back to her matrimonial home. The informant/O.P. No.2 further alleged that the petitioners along with others started assault and torture her and made a demand to bring one Maruti car and cash of Rs.5,00,000/- to which the informant/O.P. No.2 objected. Thereafter, she was subjected to torture. When the informant/ O.P. No.2 told her husband that her father is not capable of meeting the demand of dowry, he also used to torture her. The informant further alleged that whenever the husband of her sister-in-law (petitioner no.6) used to come to Dharhara, he also used to instigate the others to compel her to get a Maruti car and cash. The informant further alleged that at 12:00 in the midnight, after finding her alone, the petitioner, namely, Satya Narayan Mandal entered into her room and started to sexually molest her to which when the informant objected, he told her to keep quiet and on one



occasion, petitioners as well as her husband assaulted her at midnight and ousted her out of the house and told that without fulfilling demand of dowry, she would not allow to enter into the house, whereafter informant was compelled to live at the neighbour's house. From where, the informant, informed her father about the entire incident, who came over there and took the informant back to her parental home. The informant has further alleged that fifteen days prior to lodging of the FIR, her husband as well as the petitioner no.6 used to come to Dharhara, he also used to instigate the others to compel her family members/parents to get a Maruti car and cash, they got violent and started abusing and assaulting the informant/O.P. No.2 and told that as they had insulted them, hence, as long as the demand of dowry was not fulfilled, their daughter would not be taken back to her matrimonial home.

4. It is submitted by learned counsel appearing on behalf of the petitioners that matter has been



compromised between the parties and in terms of compromise payment of Rs. 10,00,000/- (Rupees Ten Lakh) would be made as and when the Opposite Party No. 2 will provide her bank details to the petitioners. He further submits that immediately on supplying of bank details, payment of aforesaid amount of Rs.10,00,000/- would be made to opposite party No.2.

5. Learned APP duly assisted by learned counsel for the opposite party no.2 affirmed that the matter has been compromised between the parties before the Mediation Centre, Patna High Court and, as now, no dispute is pending between the parties. Learned counsel for opposite party no.2 undertakes to provide the bank details of Opposite Party No.2 to the petitioners positively by 08.04.2024.

6. It would be apposite to re-produce the settlement terms of Mediation Centre, Patna High Court, which is as under :-

"Patna High Court Mediation Centre



Memorandum of Agreement
Mediation Proceeding No.709 of 2023
[Arising out of Cr. Misc. No.40003 of 2015]

An agreement made on 23.02.2024 at the High Court Patna Mediation Centre, between,

1. Nitu Devi, wife of Late Jagdish Mandal.
2. Amod Kumar @ Amod Mandal, Son of Late Jagdish Mandal,
3. Babita Devi, wife of Shri Manoj Mandal
4. Manoj Mandal, son of Late Jagdish Mandal, all resident of Dharhara, P.S.-Banmankhi, District-Purnea.
5. Chandrama Devi @ Charan Devi, wife of Shri Satyanarayan Mandal
6. Satya Narayan Mandal, son of Late Sundar Mandal, both resident of Mohinai, P.S.-Sarsi, District-Purnea.

... Petitioners

And

Ranju Devi, wife of Pramod Mandal, D/o Shri Ram Deo Mandal, resident of village-Raghunathpur Pakaiya, P.S.-Udakishunganj, District-Madhepura.

..... ... Opposite Party No.2.

Both the parties appeared with their respective counsels are present. Both the parties come to the amicable settlement on the following terms and conditions:-

1. Both the parties come to the amicable



settlement against the total one time settlement amount of Rs.20,00,000/- (Rupees Twenty Lakhs)

2. That the first instalment of Rs.5,00,000/- (Rupees Five Lakh) will be deposited in the Bank Account of Opposite Party No.2, which will be supplied at the time of filing of Divorce petition on mutual consent.

3. That the second instalment of Rs.10,00,000/- (Rupees Ten Lakh) will be given to Opposite Party No.2 at the time of quashing of all the Criminal Cases pending.

4. That the third and final payment of Rs.5,00,000/- (Rupees Five Lakh) will be given to Opposite Party No.2 at the time of passing Decree of Divorce.

5. This settlement shall be full and final settlement and no claim in future shall be made against each other.

6. That the above contents of the agreement have been read over and explained to us in Hindi which we have fully understood them.

7. That in the above terms and conditions a settlement has been arrived at between the parties and both have signed in presence of their learned counsels, who have also put their signature on this agreement."



7. It would be apposite to reproduce para-13, 14, 15, 16 & 17 of the legal report of Hon'ble Supreme Court passed in the case of **Abhishek vs. State of Madhya Pradesh** reported in **2023 SCC Online SC 1083**, which are as under:-

"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 State of Haryana and Ors. Vs. Bhajan Lal and Ors [(1992) Supp (1) SCC 335], 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 information 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 person 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 Act concerned (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 Act concerned, 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.”



8. In view of aforesaid factual and legal discussions, as matter has been compromised in mediation proceeding between the parties, as discussed above, continuing with the legal proceedings would only amount to abuse of process of law.

9. Accordingly, the impugned order taking cognizance dated 15.07.2013 passed by learned Sub-Divisional Judicial Magistrate, Udakishunganj, Madhepura in G.R. No.624 of 2013, Tr. No.3958 of 2013 arising out of Udakishunganj P.S. Case No.73 of 2013 with all its consequential proceedings are, hereby, quashed and set aside *qua* petitioners.

10. The application stands allowed.

11. Let a copy of this judgment be communicated to the learned Trial Court immediately.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.04.2024
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