

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.24852 of 2017**

Arising Out of PS. Case No.-2449 Year-2015 Thana- WEST CHAMPARAN COMPLAINT  
District- West Champaran

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1. Imran Ansari Son of Sarif Mian @ Sarif Ansari.
  2. Sarif Mian @ Sarif Ansari, son of Late Gafur Mian.
  3. Sahabun Nesha @ Shahadan Nesha, Wife of Sarif Ansari @ Sarif Mian. All are Resident of Bhatwaliya, P.S.- Majhauria, District- West Champaran.

... .. Petitioners

Versus

1. The State of Bihar
2. Aasama Khatoon @ Aajam Khatoon, Wife of Imran Ansari, Daughter of Rafique Ansari, Resident of Village- Satvirwa, P.S.- Majhauria, District- West Champaran.

... .. Opposite Parties

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**Appearance :**

For the Petitioner/s : Mr.Bhagya Narayan Jha, Advocate  
For the Opposite Party/s : Mr.Jitendra Kumar Singh, APP

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

**Date : 26-06-2024**

Heard learned counsel for the petitioners and  
learned A.P.P. for the State.

**2.** The present petition has been filed to quash the order dated 07.01.2017 passed by learned S.D.J.M., Bettiah in Complaint Case No. 2449(C) of 2015, whereby and whereunder learned Magistrate has taken cognizance for the offence under Sections 498A and 323 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

**3.** The brief facts of the case is that the



complainant has filed a complaint petition dated 31.10.2015, in which she alleged that at the time of marriage her father had given Rs. 1,00,000/- as dowry and other house hold articles to the in-laws people. She alleged that one daughter was born from the said wedlock and due to said reason, in-laws people started torturing her.

**4.** Learned counsel appearing on behalf of the petitioners submitted that petitioner no. 1 is the husband and petitioner nos. 2 and 3 are the father-in-law and mother-in-law of the complainant. Learned counsel pointed out that the marriage between the parties now dissolved as per Muslim customary rights/personal law and thereafter both parties solemnized their marriage as per their choice. It is submitted that issue regarding maintenance was also settled in terms of compromise arrived between the parties, which is also apparent from the order dated 29.06.2018 passed in Matrimonial Case No. 24/2015 as passed by learned Principal Judge, Family Court, West Champaran, Bettiah, wherein it appears that opposite party No. 2 received permanent alimony/*Dainmohar* of Rs. 3,00,000/-



from this petitioner. It is further submitted by learned counsel that petitioner No. 1 further agreed to pay Rs. 3000/- per month to daughter namely, Nasreen Khatoon.

**5.** It is submitted that in view of compromise/settlement as arrived between the parties as the dispute is purely private in nature continuing with the proceeding before the learned trial court would only amount to abuse of the process of the court of law. In support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court in the matter of **Abhishek vs. State of Madhya Pradesh** reported in **2023 SCC Online SC 1083**.

**6.** Despite service of notice, learned counsel for opposite party No.2 failed to join the present proceeding.

**7.** Learned A.P.P. for the State is present.

**8.** 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 (supra)**, 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.”

**9.** In view of the aforesaid factual and legal submission, as the matter for maintenance and other aspects appears compromised between the parties where both parties after getting their marriage dissolved in terms of their personal law, solemnized their marriage and further by taking a guiding note of **Abhishek case (supra)**, order taking cognizance dated 07.01.2017 passed by learned S.D.J.M., West Champaran, Bettiah in connection with Complaint Case No. 2449(C) of 2015 with all its consequential proceedings *qua* above-named petitioners is hereby quashed and set aside.

**10.** Accordingly, this application stands allowed.

**11.** Let a copy of this judgment of sent to the learned trial/concerned court forthwith.

**(Chandra Shekhar Jha, J.)**

Rajeev/-

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