

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25895 of 2017

Arising Out of PS. Case No.-3145 Year-2015 Thana- PATNA COMPLAINT CASE District-
Patna

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Rahul Verma son of Sri Pavanendra Narayan Verma, resident of A- 56, South City, P.S.- Mohanlalganj, Raibareli Road, Town and District- Lucknow, State- Uttar Pradesh.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Sanjeev Ranjan Sinha son of Late Ashwini Kumar Sinha, resident of Flat No. 104, Aparajita Enclave, Jyotipuram Colony, Ambedkar Path, Khajpura, P.S.- Rajeev Nagar, Town and District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Prakash
For the Opposite Party/s : Mr. Binod Kumar 3

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 27-06-2024

Heard learned counsel appearing for the parties.

2. This is an application for quashing the order dated 09.11.2016 passed in compliant case no 3145(c) of 2015 passed by learned Sub Divisional Judicial Magistrate, Patna where cognizance for the offence punishable under section 498(A) of Indian penal code and Section 4 of Dowry Prohibition Act, was taken against petitioner.



3. The crux of allegation is that the marriage of the complainant's daughter Priyam Akancha with Rahul Verma (petitioner) was solemnized on 18.01.2015. Prior to the marriage ceremony at Patna an engagement ceremony was also performed in Lucknow on 16.08.2014, where only on 15 minutes late arrival of the complainant and family, the accused persons demoralized them in front of their guests during marriage ceremony. The Complainant booked 22 rooms at Hotel Patliputra Ashok, for wedding ceremony on instance of the accused party, without any need, however throughout the marriage, the accused persons created issues with regard to arrangements. Complainant's daughter i.e., 19.01.2015 left for Lucknow with in laws after marriage, where on 20.01.2015, she got shocked after knowing that her in-laws are making allegation against her parents of not giving sufficient gifts to the petitioner. On reception day i.e., 21.01.2015, the co-accused asked the complainant about their heavy expenses spend on marriage and next day straightway



demanded Rs. 20 lakhs dowry from the complainant to meet such expenses; however the complainant explained his difficulty for fulfilling the same. The daughter of complainant along with the petitioner on 26.01.2015 left for Mumbai by flight, where she was tortured physically as well as mentally by petitioner. After some time petitioner's father also arrived at Mumbai and in his presence, the petitioner used to beat the complainant's daughter, which is also encouraged by petitioner father, however it is tolerated by complainant's daughter. On 4th March 2015, the complainant with his wife visited Mumbai to celebrate *holi* with her daughter, where petitioner misbehaved with them for not celebrating marriage according to his parents' wishes. However, it is alleged that the complainant's daughter gone into depression. That on 20th or 21st March while packing is done by daughter of complainant for shifting in new flat, on some delay, the complainant's daughter was abused and on protest she was beaten ruthlessly by the petitioner before the labors. Due to



merciless beating the complainant's daughter suffered with severe blood clout in her whole body and she was not able to arrange the goods in newly shifted apartment, however she was compelled to do due to petitioner's strict direction, resultant in shivering of body. However after due to continuous beating, the complainant's daughter on 27th March, somehow with help of friends managed to escape and fled to Patna by boarding plane and thereafter send SMS to the petitioner about it and arrived Patna at 11 PM in night of 27.03.2015, and on 28.03.2015 morning, the complainant with her daughter went to local Police station at Patna, but the Police did not registered FIR .The complainant daughter explained entire circumstances to complainant regarding leaving petitioner's home and also informed that her marriage is not consummated as the petitioner had a circumcision surgery, and due to which he had lost his erectile dysfunction, which he suppressed, therefore he is not fit to maintain conjugal relationship and the marriage is done by him for gaining false prestige in



society. Further, it is alleged that the complainant also requested for divorce through mutual consent, and also send a draft petition for mutual divorce through courier and e-mail, which was not accepted by petitioner and when contacted he refused for the same. Hence, the present complaint was filed by the complainant.

4. It is submitted by learned counsel for the petitioner that the petitioner is the husband of O.P. No. 2 and now the matter amicably settled between the parties. It is further submitted that upon settlement, the parties dissolved their marriage by way of mutual divorce.

5. It is submitted by the learned counsel that the said divorce was granted on mutual prayer by the parties, under provisions of 13-B of the Hindu Marriage Act, 1955, which was granted through Matrimonial Case No. 72 of 2016, dated 03.10.2018 by the learned Principal Judge, Patna.



6. It is submitted that the petitioner paid Rs. 2,00,000/- (Rupees Two Lakh), as full and final settlement to O.P. No. 2.

7. It is pointed out that it was settled further to withdraw the present pending criminal case also but after getting dissolved their marriage by way of divorce and also after receiving the permanent alimony, the O.P. No. 2/wife failed to withdraw the present criminal proceedings pending before the court of learned S.D.J.M. Patna.

8. In view of the above settlement, learned counsel appearing for the petitioner submitted that the continuing with the process before the learned trial court, would only amount to abuse of process of law.

9. In support of aforesaid submission learned counsel relied upon the report of Hon'ble Supreme Court as reported in the matter of ***Abhishek vs. State of Madhya Pradesh*** as reported in ***2023 SCC OnLine SC 1083***.



10. Learned counsel appearing for Opposite Party No. 2, despite of repeated calls failed to join the present proceeding, while the matter was taken on board.

11. Learned APP for the State opposed the prayer for quashing petition.

12. It would be appropriate to reproduce the Paragraph Nos. 12, 13, 14 ,15, 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."

13. In view of the aforesaid factual and legal submission as it appears that the marriage between the parties now appears dissolved by way of divorce which was obtained mutually, U/s 13-B of the Hindu Marriage Act, 1955. It also appears that the issue of maintenance now also settled between the parties for which Rs. 2,00,000/- (Rupees Two Lakh) was paid to O.P. No. 2, as permanent alimony.



14. In view of the aforesaid settlement, the continuing of present criminal case before Ld. trial court appears only amounting to abuse of the process of court of law, which appears further convincing from the guiding note of **Abhishek Case (supra)**, accordingly, the order of cognizance dated 09.11.2016 with all its consequential proceedings, *qua*, petitioner, arising thereof as passed in connection with Complaint Case No. 3145(c) of 2016, pending before the learned Sub-Divisional Judicial Magistrate, Patna, is hereby quashed and set aside.

15. Hence, this application stands allowed.

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

(Chandra Shekhar Jha, J)

Sudha/-

AFR/NAFR	NAFR
CAV DATE	NA
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