

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38061 of 2016

Arising Out of PS. Case No.-5 Year-2016 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Dr. B.M. Mantale @ B.M. Mantale, S/o Manik Rao Mantale
2. Shakuntala Mantale @ S.B. Mantale, Wife of Dr. B.M. Mantale;
Both are resident of Thusar, Shahu Nagar, Naded Road, Police Station –
Gandhi Chauk in the district of Latur (Maharashtra).

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Ritu Raj, D/o – Braj Nandan Prasad Singh, W/o – Praful Kumar Mantal,
resident of Flat No. 309, Rameshwaram Apartment, Bhutnath Road
Kankarbagh, Police Station – Agamkuan in the district of Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr Raj Kumar, Advocate Mr. Vijay Kumar, Advocate
For the O.P. No. 2	:	None
For the State	:	Mr. Upendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

9 13-12-2024 The present petition, under Section 482 Cr.PC, has

been preferred by the petitioners against the impugned order

dated 28.06.2016, passed by learned J.M. 1st Class, Patna City in

Complaint Case No. 05 of 2016, whereby learned Magistrate

has taken cognizance of offence punishable under Section 498A

of the Indian Penal Code against the petitioners and co-accused

Praful Kumar Mantale, who is husband of the complainant.

2. As per the allegation, the marriage of the

complainant/O.P. No.2 herein was solemnized with the



petitioner herein, Prafull Kumar Mantale, on 03.12.2004 and after the marriage, the complainant joined matrimonial home of her husband at Latur, Maharashtra. But just after the marriage, there was demand of dowry and on account of non-fulfillment of the same, the complainant was subjected to mental cruelty. In 2005, at the occasion of Diwali, her head hair also got burnt. As per further allegation, both the complainant and her husband Prafful Kumar Mantale were doing job in a private company and in the year 2010, the husband and complainant both got transferred in America and even there, the complainant was being subjected to cruelty by her husband. In October, 2015, the complainant again came back to India and started doing job in Bangalore.

3. Under Section 200 Cr.PC, three witnesses including the complainant were examined before taking cognizance.

4. I heard Ld. counsel for the petitioners and Ld. APP for the State. However, nobody is present on behalf of O.P. No. 2 despite valid service of notice.

5. Ld. counsel for the petitioners submits that petitioners are innocent and have falsely been implicated. He further submits that all the petitioners are other than husband and on account of non-working of the marriage between the



complainant and her husband/petitioner herein, they have been falsely roped in by the complainant with intent to harass the whole family of the husband. The main allegation of the complainant is against the husband. Moreover, there is no specific allegation against them with reference to the date and place and nature of the cruelty. Ld. Judicial Magistrate has taken cognizance against the petitioners only mechanically without applying judicial mind and without finding any substantive material against them.

6. However Ld. A.P.P. for the State vehemently defends the impugned order submitting that there is sufficient material on record to issue summons against the petitioners also.

7. I perused the materials on record and gave thoughtful consideration to the submissions advanced by both the parties.

8. From perusal of the written report and the materials on record, I do not find any specific allegation against the Petitioners with date and place of the commission of the alleged offence. The Petitioners seem to have been roped in by the informant on account of non-working of the marriage with her husband with intent to harass the whole family. It has been consistently held by Hon'ble Supreme Court that tendency has



developed to falsely implicate relatives of the husband in matrimonial dispute by way of general and omnibus allegation and if, such tendency is left unchecked, it could result in misuse of the process of the law. (refer to **Kahkashan Kausar @ Sonam & Ors. Vs. State of Bihar & Ors. (2022) 6 SCC 599**).

9. In **Pepsi Foods Limited & Anr. v. Special Judicial Magistrate & Ors., [(1998) 5 SCC 749]**, Hon'ble Supreme Court has held that summoning of an accused in a criminal case is a serious matter and criminal law cannot be set into motion as a matter of course.

10. In the celebrated judgment of **State of Haryana vs Bhajan Lal [1992 Suppl (1) SCC 335]**, Hon'ble Supreme Court has held, amongst other things, 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, the inherent power under Section 482 Cr.PC may be invoked by the Court to prevent the abuse of the process of Court and secure the ends of justice.

11. Hence, the impugned order is not sustainable in the eye of law. It is liable to be quashed and set aside under Section 482 Cr.PC.

12. Accordingly, the present petition is allowed quashing



and setting aside the impugned order dated 28.06.2016, passed by
learned J.M. 1st Class, Patna City in Complaint Case No. 05 of
2016

(Jitendra Kumar, J.)

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