

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.961 of 2022

Arising Out of PS. Case No.-52 Year-2021 Thana- JAKKANPUR District- Patna

PRANAV SHRIVASTAVA son of Late Shri Umesh Kumar Shrivastava
Resident of Adarsh Colony, Bhagwat Nagar, Patna P.S. Agam Kuan, District -
Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department
(Bihar)Bihar, Patna.
2. The Director General of Police, Bihar.
3. The Senior Superintendent of Police, Bihar, Patna.
4. Superintendent of Police (City) Patna.
5. The officer- In- charge, Jakkanpur Police Station, Patna.
6. The Investigating officer, Jakkanpur P.S. Case Number 52/2021 Jakkanpur
Police Station, Patna.
7. Perna Sharma W/o Pranav Shrivastava, Daughter of Late Ashutosh Sharan
At present resident of Tara - Kunj, Ramnagar, chiraiyatand, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Prakritita Sharma, Adv., Mr Amarjeet, Adv.
For the State	:	Mr. Deepak Kumar, AC to GP-4

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 17-02-2024

Heard learned Advocate for the petitioner as well as
learned APP for the State.

2. The petitioner is the husband of respondent no. 7.

3. By filing the instant writ petition the petitioner has
prayed for issuance of writ in the nature of certiorari, directing the
respondent nos. 2 to 6 to quash the F.I.R. bearing Jakkanpur P.S.



Case No. 52 of 2021, registered on the basis of a written complaint filed by the respondent no. 7 against the petitioner and her mother (since deceased), under Section 498A of the I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act.

4. It is submitted by the learned Advocate for the petitioner that his marriage was solemnized with the respondent no. 7 on 23rd November, 2017. In the year 2019, respondent no. 7 lodged an F.I.R. alleging, inter alia, that her husband used to assault her physically and treat her with cruelty. In the said F.I.R., respondent no. 7 did not make any allegation of dowry. There was also no allegation of cruel treatment within the definition of explanations A and B of Section 498A of the I.P.C. in the said F.I.R. The petitioner on the other hand, filed a suit for restitution of conjugal rights. The previous F.I.R. case was amicably settled at the intervention of the well wishers including the trial court, but the respondent no. 7 refused to go to her matrimonial home. This led the petitioner to file a suit for restitution of conjugal rights. Subsequently, the petitioner filed the instant F.I.R. (Annexure-7) making unsubstantiated, false and frivolous allegation, against her husband as well as mother-in-law. In the second F.I.R., she made a story of illegal demand of dowry. She also made allegation that the petitioner created a Facebook account and uploaded objectionable



pictures of respondent no. 7 in the said Facebook account. She also mentioned objectionable WhatsApp chat allegedly forwarded by the petitioner, however, Police did not collect the photocopies of the WhatsApp chat or documents in Facebook. Therefore, the said allegation of mental cruelty could not be substantiated by the Investigating Officer.

5. Learned Advocate for the petitioner also submits that the Investigating Officer submitted charge-sheet against the petitioner without collecting any material evidence against him. It is also pointed out by the learned Advocate for the petitioner that though charge-sheet was filed in the court of the learned A.C.J.M.-I, Patna, no progress with regard to trial could be achieved, due to misplacement of record. Therefore, this is a fit case for quashment of F.I.R.

6. Learned Advocate for the State, on the other hand, submits that the Investigating Officer filed charge-sheet on the basis of materials and evidences collected by him. Filing of charge-sheet shows establishment of prima facie case against the petitioner. Therefore, after filing of charge-sheet F.I.R. cannot be quashed.

7. Having heard, the learned Advocate for the petitioner and the respondent/ State, I like to record at the outset that in



plethora of cases, the Hon'ble Supreme Court states that an F.I.R. can only be quashed very sparingly and rarest of the rare cases. The guidelines laid down in ***State of Haryana & Ors. Vrs. Bhajan Lal & Ors. case***, reported in ***1992 (Suppl.) 1 SCC 335*** that an F.I.R. can be quashed on the following grounds:-

"1. Whether the allegations in the F.I.R. prima facie make out a cognizable case.

2. Whether the F.I.R. does not disclose any cognizable offence, but indicates the need of an enquiry where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wrecking vengeance on the accused and with a view to spite him due to private or personal grudge, the F.I.R. may be quashed."

8. The learned Advocate for the petitioner has led stress on the above mentioned aspect that the F.I.R. filed by respondent no. 7 was manifestly attended with mala fide only to wreck vengeance against her husband.

9. However, this Court is not in a position to scan and scrutinize the evidence collected by the Investigating Officer during investigation. Filing of charge-sheet prima facie means establishment of accusation against the petitioner. After filing of the charge-sheet F.I.R. cannot be quashed. Therefore, this Court is not in a position to quash the F.I.R. at a subsequent stage of filing



charge-sheet. However, the petitioner is at liberty to take recourse of Section 482 of the Cr.P.C. for quashing of the criminal case pending against him, wherein under the inherent power the High Court can look into the evidence, collected by the Investigating Officer, and come to a finding as to whether the evidence collected by the Investigating Officer is sufficient to frame charge against the accused or not.

10. With the above order, the instant criminal writ petition is disposed of.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

