

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1629 of 2023

Arising Out of PS. Case No.-15 Year-2021 Thana- AIRPORT District- Patna

1. Hira Lal Hans @ Hira Lal Mahto Son of Late Batoran Mahto Resident of Post Office Fulmalik Ward No Two Ps Sahebpur Kamal District Begusarai
2. Sharmeela Devi Wife of Hira Lal Hans @ Hira Lal Mahto Resident Of Post Office Fulmalik Ward No Two Ps Sahebpur Kamal District Begusarai
3. Nand Kishore Kumar Son of Hira Lal Hans @ Hira Lal Mahto Resident of Post Office Fulmalik Ward No Two Ps Sahebpur Kamal District Begusarai
4. Mrityunjay Kumar Son of Hira Lal Hans @ Hira Lal Mahto Resident of Post Office Fulmalik Ward No Two Ps Sahebpur Kamal District Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Home Department, Govt. Of Bihar, Patna Bihar
2. Ruchika Patel Wife of Dr. Parmanand Parmhansh Resident of Flat No. G01, Block A, Mahua Bagh Road, Ps- Hawaiiadda, Dist- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashish Giri, Adv., Mr. Sumit Kumar Jha, Adv., Mr. Riya Giri, Adv.
For the State	:	Mr. Manoj Kumar, AC to GP-4

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 27-02-2024

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

2. The petitioners are the elder brother-in-law, wife of the said elder brother-in-law and their two children having been implicated in connection with Hawaiiadda P.S. Case No. 15 of



2021, under Sections 341, 323, 504, 498A, 34 of the I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act.

3. The petitioners have filed the instant writ petition under Article 226 of the Constitution of India, praying for the following reliefs:-

“1. i) To issue appropriate writ/order/direction in the nature of certiorari, quashing the F.I.R. bearing Hawaiadda P.S. Case No.15 /2021 dated 13.01.2021 as against the petitioner under Sections 341, 323, 504, 498 A, 34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

ii) To issue appropriate writ/order/direction in the nature of certiorari for quashing the charge-sheet no. 183/22 dated 19.07.2022 as against the petitioners under Sections 341, 323, 504, 498A, 34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

iii) To pass interim /ex parte interim direction that no coercive action be taken against the petitioners in relation to the Hawaiadda P.s. Case No.15 /2021 dated 13.01.2021 and/or further proceedings be stayed as against the petitioners.

iv) To any other relief or reliefs for which the petitioners are found to be entitled in the facts and circumstances of the case.”

4. It is submitted by the learned Advocate for the petitioners that the marriage of the respondent no. 2 was



solemnized with one Dr. Parmanand Paramhans according to Hindu rites and ceremony on 19th April, 2015. That on 6th September, 2019, the complainant/respondent no. 2 filed a court complaint, which was registered as Complaint Case No. 3985(C) of 2019, under Sections 498A/323/506/120B of the I.P.C. On the basis of said complaint, the learned Magistrate took cognizance of the offence vide order dated 7th January, 2020 against the petitioners and the husband of the complainant under Sections 498A/323 of the I.P.C. The said complaint case is still pending .

5. In connection with Hawaiiadda P.S. Case No. 15 of 2021, matrimonial relations of the respondent no. 2 has been implicated under the offence punishable under Sections 341/323/504/498A/34 of the I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act.

6. The F.I.R. story in brief is that after the marriage of the respondent no. 2 with Dr. Parmanand Paramhans, the accused persons used to instigate her, abused her with filthy language and used to assault her. They also demanded money from her. Since the father of the informant was a retired Government employee, it was not possible for her father to satisfy the demand of the petitioners.

7. On plain reading of the F.I.R., this Court likes to record at the outset that no case has been made out against the



petitioners alleging wrongful restrained of the respondent no. 2 by the petitioners. Therefore, there was no allegation in the F.I.R. itself regarding offence under Section 341 of the Cr.P.C.

8. It is submitted by the learned Advocate for the petitioners that the petitioners and the informant resides separately in separate houses. The house property of the parties has been partitioned amongst the co-sharers and there was no occasion to inside the respondent no. 2 or to assault her or to make any demand of money. The respondent no. 2 did not specify any specific date regarding commission of such offence. She was not examined by any Medical Officer in support of his claim that she was assaulted by the petitioners. It is also submitted by the learned Advocate for the petitioners that the petitioners no. 3 is an employee of Indo-Tibet Border Police and he is now posted at Bhubneshwar. Petitioner no. 4 has been working as a Deputy Manager, National Project Construction Corporation Limited, Patna. For his job he used to move around different places in the State of Bihar. Therefore, the allegation on the basis of which the aforesaid P.S. was registered was absolutely vague.

9. In support of his contention, the learned Advocate on behalf of the petitioner refers to a three Judges Bench decision in the case of *Abhishek Vrs. State of Madhya Pradesh*, reported in



2023 SCC Online SC 1083. Paragraphs 15 and 16 of the aforesaid report are absolutely relevant and recorded below:-

“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.”

10. In the ***State of Haryana & Ors. Vrs. Bhajanlal & Ors.***, reported in ***1992 (Suppl.) 1 SCC 335***, the Hon’ble Supreme Court delineated the circumstances where an F.I.R. or the charge-sheet can be quashed, they are the following:-

“(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.'''

11. In view of the above discussion and applying the aforesaid edicts of the case on hand, this Court can conclude even



at this initial stage that the complaint on the basis of which Hawaiiadda P.S. Case No. 15 of 2021 was registered, suffers from vagueness of allegation and the complaint was manifestly attended with mala fide and filed with an ulterior motive of wrecking vengeance against the petitioner.

12. Therefore, the F.I.R. in connection with Hawaiiadda P.S. Case No. 15 of 2021 and consequent charge-sheet under Sections 341/323/498A/504/34 of the I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act are quashed and set aside.

13. The instant writ petition is accordingly allowed.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

