

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45326 of 2017

Arising Out of PS. Case No.-419 Year-2015 Thana- BUXAR COMPLAINT CASE District-
Buxar

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1. Surayabhan Singh, son of late Ram Shlok Singh.
2. Deojhari Devi, wife of Suryabhan Singh.
Both are resident of Village : Bhramnpur, P.S.- Chandvak, Distt. Jonpur
(U.P.)
At present resident : 492c Kailash Nagar, Gurga Vihar Jajmau, Kanpur
208010.

... .. Petitioner/s

Versus

1. State of Bihar
2. Soni Singh, Daughter of Sidheshwar Singh @ Lalan Singh, Resident of
Village – Rajpur, P.S. - Rajpur, Distt. Buxar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha, Advocate
For the Opposite Party/s : Mr. Naveen Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 16-05-2024

At the outset it is important to mention

that joint status of O.P. No. 2, who received the notice
was filed on affidavit, which suggests that notice was
served validly upon O.P. No. 2.

2. The present application preferred for
quashing the order of taking cognizance dated
27.04.2016 passed by learned S.D.J.M., Buxar, in
Complaint Case No. 419 (C) of 2015, Trial No. 2424 of



2016, whereby cognizance was taken for the offences under Section 498 A of the Indian Penal Code (in short "IPC") and Section 4 of the Dowry Prohibition Act against the petitioners.

3. Despite service of notice O.P. No. 2 fails to join the present court proceedings.

4. The basis of this case is that one Soni Singh (O.P. No. 2) filed a complaint case before learned C.J.M., Buxar on 11.05.2015 to the effect that her marriage was solemnized with the son of petitioners on 06.05.2011 and thereafter, she started to reside in matrimonial house, where after some time, accused persons started to demand a car as dowry and when the said demand was not fulfilled, she was being tortured. It is further alleged that her husband, who is in Air-force service, has illicit relation with a lady, who is resident of Bangalore. At last, it is stated that on 31.05.2014, she was ousted from the house.

5. Learned counsel appearing for the



petitioners submitted that both parties dissolved their marriage by way of mutual consent and settled all their differences amicably regarding dowry, maintenance etc. through Matrimonial Case No. 362 of 2022 dated 18.12.2022 as filed before the court of learned Principal Judge, Family Court, Buxar. It is pointed out that as matter amicably settled between the parties continuing with the process would only amount to abuse the process of court of law. It is submitted that petitioner no. 1 is father-in-law and petitioner no. 2 is mother-in-law of O.P. No. 2, living separately and having no connection with their daily and domestic affairs. It is also submitted that allegation against these petitioners is also very general and omnibus in nature, where implication appears with oblique and ulterior motive, with harassing attitude.

6. In support of his submissions, learned counsel relied upon the legal report of the Hon'ble Supreme Court as reported in the matter of **Abhishek**



Vs. State of Madhya Pradesh as reported in **2023**
SCC OnLine SC 1083.

7. Learned APP appearing on behalf of State
opposes the application.

8. It would be apposite to reproduce relevant
Paragraph Nos. 12, 13, 14, 15, 16 & 17 of **Abhishek**
Case (supra), which read as under:-

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.”

9. In view of aforesaid legal and factual submissions as parties dissolved their marriage by their mutual consent where all dispute arising out of said marriage between the parties appears settled amicably, petitioners are in-laws and also further by taking guiding note of **Abhishek case (supra)**, impugned order of taking cognizance dated 27.04.2016 with all its consequential proceedings, *qua*, both above named



petitioners arising thereof as passed in connection with Complaint Case No. 419/2015, Trial. No. 2424 of 2016 pending before learned S.D.J.M., Buxar is hereby quashed and set aside.

10. Hence, this application stands allowed.

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

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	NAFR
CAV DATE	NA
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