

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.69738 of 2023**

Arising Out of PS. Case No.-1917 Year-2018 Thana- PATNA COMPLAINT CASE District-  
Patna

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NUTAN KUMARI WIFE OF KAUSHALDEO PRASAD SINGH  
RESIDENT OF WARD NO.13, SAMLONG, P.S. - NAMKUM, DISTRICT -  
RANCHI, STATE - JHARKHAND

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. NEHA SINHA WIFE OF SANJAY KUMAR SINGH, D/O. RANJEET  
SINGH RESIDENT OF SHANTI LOK APARTMENT, P.S. -  
SHEIKHPURA, DISTRICT - PATNA

... .. Opposite Party/s

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**Appearance :**

|                            |                         |
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| For the Petitioner/s :     | Mr.Shashank Chandra     |
| For the Opposite Party/s : | Mr.Ram Sumiran Rai      |
|                            | Mr. Jharkhandi Upadhyay |

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**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR**  
**ORAL ORDER**

5      01-07-2024                      Heard the parties.

2. This application has been filed for quashing the Order dated 27.02.2019, passed by the Sub Divisional Judicial Magistrate, Patna, in connection with Complaint Case No.1917 (C) of 2018 whereby the court below has been pleased to take cognizance for the offences under Section 498 (A) of the Indian Penal Code and Section 4 of Dowry Prohibition Act and has been further pleased to issue process against the Petitioner under Section 204 of the Cr.PC.

3. The prosecution story as alleged by the Complainant (Neha Sinha) is that she alleges that her marriage was solemnized on 24.04.2012 with the brother of the petitioner



namely Sanjay Kumar Singh in accordance with Hindu rites and rituals at Patna, with the consent of the parents as well as in presence of other relatives. At the time of marriage, about Rs. 10 Lakhs was paid by her parents and ornaments including valuable gifts worth Rs. 10 Lakhs were also given to the brother of the Petitioner and other in-laws. The Complainant further alleges that after her marriage, she went to her in-law's place, situated at Chakradharpur where for about 10 days, she resided peacefully, but thereafter the brother of the Petitioner as well as the Petitioner along with other accused persons started demanding Rs. 25 Lakhs and a Maruti Car. The said accused persons were even compelling the Complainant to make the said demand from her parents, when the Complainant said that her parents are not in a position to fulfill the said demand, all the accused persons meted physical as well mental cruelty upon the Complainant.

4. It is next alleged that when the parents of the Informant and her relatives came to know about the said cruelty then they were also humiliated by the accused persons. Further, that the physical cruelty upon the Complainant increased and that even all the clothes as well as the ornaments of the Complainant were snatched. Further, the Complainant again



informed about the cruel conduct to her parents and also gave a written application to a Srijan Mahila Vikas Manch, Chakradharpur on 13.10.2015 and also on 21.10.2015, the Complainant gave an application to SHO, Mahila P.S Chaibasa, on account of which the accused persons for few days did not torture the Complainant but after a month, the same again started.

5. It is next alleged that in the month of December 2015, her husband brought a woman in the house and used to sleep with her and when the Complainant used to object, her husband used to assault her, which was being supported by the Petitioner and other accused persons. Thereafter, the Complainant got herself treated by Dr. Vijay Prakash and upon treatment she returned back to her in-law's place but again in the month of 2015, her health deteriorated, for which information was given to the parents of the Complainant who brought her to Patna and also got her treated at Paras Hospital, Patna.

6. It is further alleged that the parents of the Complainant made several requests to the accused persons to allow the Complainant to live at her matrimonial house, but they refused and said that until and unless Rs. 25 lakhs is not paid, the Complainant will not be allowed to return back. On



22.04.2018, the complainant's husband visited one of the neighbors of the Complainant at Patna, he brought Sanjay Kumar Singh to his house, thereafter the parents of the Complainant and her brother requested the complainant's husband to take the Complainant with him, but he refused to do so and left the house by saying that he will be giving divorce to the Complainant very soon.

7. The Complainant went to the Shastrinagar Police Station to register the FIR, but the same was refused. Accordingly, the present Complaint came to be instituted.

8. It is further submitted on behalf of the petitioner that on the basis of the aforesaid Complaint, the learned Magistrate conducted an enquiry and recorded the SA of the Complainant and recorded the statement of two enquiry witness, namely Shanti Devi (EW 1, Mother of the Complainant), Gyan Prakash Verma (EW-2, Brother of the Complainant), who allegedly supported the allegations.

9. Learned counsel for the petitioner further submits that Magistrate upon holding an enquiry on the basis of the allegations contained in the aforesaid Complaint by order dated 27.02.2019, was pleased to take cognizance for the offences under Section 498 (A) of the IPC and Section 4 of



Dowry Prohibition Act.

10. The Petitioner at the outset submits that she is the Sister-in-law of the Complainant and has been residing with her Husband at Ranchi, where the Husband of the Petitioner works as Librarian under Jharkhand Rural Health Mission Society. It is submitted that the petitioner had no concern with the matrimonial relation of the Complainant or with her brother. The Petitioner never resided with her brother, but despite that the Petitioner has been falsely implicated in this case, merely on account of being the sister-in-law of the Complainant.

11. It is further submitted that from perusal of the Complainant it would manifest that in the entire complaint, no specific role or overt act has been attributed against the Petitioner, except of leveling general and omnibus allegations against her and other accused persons, which in itself establishes the allegations to be afterthought and exaggerated in nature.

12. Learned counsel submits that the present Complaint has been instituted against her as well as other accused persons by way of afterthought, as the Complainant has malafidely concealed certain material facts in the Complaint, which would have demonstrated that it is the Complainant who without any justification had deserted her Husband and also the



matrimonial house and now in order to cover up her misdeeds, the Complainant has instituted the present false case against the Petitioner and co-accused by levelling general and omnibus allegations.

13. It is also submitted that the subsequent to the marriage of the parties, the Complainant remained reluctant to establish conjugal relation with her husband, initially the family of the Petitioner apprehended that since the Complainant has left her parental home, as such she was not able to adjust in her matrimonial home, but even after a lapse of considerable time, the relationship between the Complainant and her husband did not improve.

14. Learned counsel submits that when the Complainant's husband as well as her mother, enquired from the Complainant regarding her unnatural conduct, when she disclosed that her marriage was solemnized against her will and also that she does not want to live with her husband, as he is about 15 years elder than him.

15. Learned counsel further submits that upon coming to know about the said fact that the Complainant's husband called the parents of the Complainant, who came to her house and tried to pacify the Complainant, however, the Complainant



remained rigid and insisted to reside at Patna with them, on repeated persuasion by the parents of the Complainant, she agreed to stay with her husband. It is submitted that although on the persuasion of the parents of the Complainant, she agreed to stay in her matrimonial house, and finally in the year 2016, the Complainant without any justification deserted her husband.

16. Learned counsel for the petitioner submits that the Complainant in order to justify her illegal act of desertion has instituted the present false case against the Petitioner and her other family members, likewise earlier also the Complainant had instituted false complaints against the Petitioner and her family members before different authorities, however finding the complaints to be based on false and fabricated facts, no action was taken on the basis of said complaints.

17. It is also submitted that falsity of the present allegation would manifest from the fact that although in the present Complaint, the Complainant alleges that Complainant's husband had brought a concubine in the house, but she has not disclosed the name of the said women, neither the Complainant has disclosed anywhere the dates on which the Complainant's husband brought the alleged concubine, this in itself demonstrates concocted allegations have been levelled and also



goes on to demonstrate the extent to which the Complainant can go to malign the image of her husband and other family members.

18. It is next argued that the Complainant in the Complaint had also alleged that when she objected against the aforesaid immoral conduct of her husband in bringing concubine in the house, other co-accused persons i.e., the mother and the father as well as the petitioner and her brother, used to assault the Complainant and support the Petitioner. It is submitted that it is highly improbable and is also contrary to a reasonable behavior of guardian that they will permit their son to bring a concubine in the house. The Complainant has deliberately levelled exaggerated allegations, in order to make out a grave offence against the Petitioner and other accused persons

19. He further submits that the Complainant in the present complaint has also alleged that on account of the cruelty meted upon her by the accused persons, the Complainant fell ill both mentally as well as physically and as such she was treated at Patna, but no prescription or any injury report has been produced by the Complainant, which falsifies the said allegation.



20. Learned counsel for the petitioner submits that the Complainant has also alleged that soon after the marriage, the accused persons started demanding dowry from the Complainant and when the said demand was not fulfilled, she was tortured, however prior to 2015 no such complaint was instituted for the said offence, this also renders the allegations as an afterthought.

21. He argues that from bare perusal of the entire allegations, as levelled in the Complaint, it would manifest that the same are in the nature of general and omnibus allegations, without even specifying the details, as aforesaid, in the Complaint. It is submitted that the present complaint case is in the nature of vexatious prosecution against the Petitioner and other accused persons, instituted with oblique motive.

22. It is also argued that in the Complaint, it is also alleged that her husband visited Patna, where he again humiliated the Complainant and her family members. It is highly improbable that the husband of the Complainant being not in good terms with the Complainant or his family, which has been admitted by the Complainant, will visit the house of the complainant at Patna. The said false allegation has been levelled to create a jurisdiction of Patna for instituting the present false



case.

23. It is also submitted that from perusal of the Impugned order it would also manifest that the learned Magistrate has merely recorded the sufficient material available on record to make out a prima facie case under section 498 A of IPC and Section 4 of Dowry Prohibition Act, but has not even remotely discussed the materials / allegations which makes out a *prima facie* case under the said offences. Thus, the Impugned order being a non- reasoned one is liable to be quashed.

24. Learned counsel for the opposite party No. 2 has opposed the application and has submitted that since the allegations have been levelled against the petitioner though she is a married *Nanad*, the prosecution against her cannot be quashed at this stage.

25. I have considered the submissions of the parties.

26. The Hon'ble Supreme Court in the case of ***Preeti Gupta V. State of Jharkhand [(2010) 7 SCC 667, Kahkashan Kausar Vs. State of Bihar [(2022) 6 SCC 599 and Achin Gupta Vs. State of Haryana [2024 INSC 369]*** has deprecated the making of sister-in-law and other relatives an accused falsely.

27. Since the petitioner is a married sister-in-law and there is general and omnibus allegations against her and also



considering the fact though the wife deserted the husband and left the family in the year 2016, the Complainant has been filed on 04.05.2018, this application is allowed.

28. Accordingly, the Order dated 27.02.2019, passed by the Sub Divisional Judicial Magistrate, Patna, in connection with Complaint Case No.1917 (C) of 2018 is quashed.

**(Sandeep Kumar, J)**

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