

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83181 of 2019

Arising Out of PS. Case No.-1738 Year-2018 Thana- MUZZFARPUR COMPLAINT CASE
District- Muzaffarpur

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1. Sita Ram Singh Son of Late Punit Singh Resident at C/o Ragho Giri, Ward No. - 5, Ganga Nagar, Holding No. - 5, Near Sita Ram Mandir, Siliguri, Distt - Darjeeling (West Bengal), Having their permanent Address at Village - Thatiya, P.S.- Kathaiya, Distt - Muzaffarpur (Bihar)
 2. Rajmati Devi Wife of Sita Ram Singh Resident at C/o Ragho Giri, Ward No. - 5, Ganga Nagar, Holding No. - 5, Near Sita Ram Mandir, Siliguri, Distt - Darjeeling (West Bengal), Having their permanent Address at Village - Thatiya, P.S.- Kathaiya, Distt - Muzaffarpur (Bihar)
 3. Rajneet Kumar@ Ranjeet Kumar Singh Son of Sita Ram Singh (eldest brother of husband) Resident at Naya Bazar, Murgi Patti, D.C. Building, House No.- 490, G.S. Road, Opposite Hotal Mayur, Dimapur, Nagaland, Pin - 797112, having their Permanent Address at Village - Thatiya, P.S.- Kathaiya, Distt - Muzaffarpur (Bihar)
 4. Sima Devi Wife of Ranjeet Kumar Resident at Naya Bazar, Murgi Patti, D.C. Building, House No.- 490, G.S. Road, Opposite Hotal Mayur, Dimapur, Nagaland, Pin - 797112, having their Permanent Address at Village - Thatiya, P.S.- Kathaiya, Distt - Muzaffarpur (Bihar)
 5. Sanjeet Kumar@Sanjeet Kumar Singh Son of Sita Ram Singh (elder brother of husband) Resident of Village - Thatiya, P.S.- Kathaiya, Distt - Muzaffarpur (Bihar)
 6. Kiran Devi Son of Sanjeet Kumar (wife of elder brother of husband) Resident of Village - Thatiya, P.S.- Kathaiya, Distt - Muzaffarpur (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sneha Roy Wife of Sujeet Kumar @ Mintu, D/o Kripa Narayan Singh Presently residing at 89/2, Katadanga Village Road, P.O. - Fingapara, P.S.- Jagaddal, Distt - North 24 Parganas, Pin - 743126, West Bengal.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate
For the Opposite Party/s : Mr. Raj Kishore Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 25-04-2024

1. The present application preferred for



quashing the order dated 21.12.2018 passed by learned C.J.M., Muzaffarpur in Tr. No. 1943 of 2019 arising out of Complaint Case No. C-1738 of 2018, whereby and where under the cognizance has been taken under sections 323, 498-A and 120-B of the Indian Penal Code (in short "IPC") against the petitioners.

2. The prosecution case as alleged by the complainant in brief is that the complainant Sneha Roy filed a complaint case before learned C.J.M., Muzaffarpur, bearing complaint case no. C-1738/2018 dated 04.07.2018, alleging therein interalia that she got married with Sujeet Kumar @ Mintu i.e. son of petitioner nos. 1 & 2, on 18-04-2006 and she further alleged that at the time of marriage father of the complaint gave four lakhs rupees and jeweleries worth Rs. 3 lakhs to petitioners. The accused persons demanded five lakh rupees to purchase car which was paid by her father but petitioner no. 01 purchased car in his own name. It is also alleged thereof, that house at Shahbajpur Mohalla is



the joint property. After twenty days of marriage, the accused petitioner no. 01 asked father of the complainant to take her daughter as his son has to go abroad, thereafter she remained at her father house for one year but no one took care of her. In 2009 husband of the complainant came to India and took her to his house and after a week husband of the complainant again went to foreign. After that all petitioners tortured her for not paying Rs. 10 lakhs to purchase car. Husband also directed to abide the sayings of family members otherwise go to her father. After some time she learnt that car was transferred in the name of Kiran Devi who sold it. On interrogation about the car all the accused persons became torturous to her. The complainant showed her desire to live at Shahbajpur which was denied by Sima Devi who told that she is owner of this house. All the accused persons told father of the complainant that husband of the complaint will make arrangement for her. She went to Kolkata where



her husband usually visiting her. On 03.11.2011 the complainant gave birth to a female child but no member of in-laws came there, not paid expenditure. The complainant put pressure to keep her with him, then a flat was booked in Kolkata, four installment were given by her husband and for rest amount the accused persons put pressure to ask her father for payment of rest installment. After sometime the complainant suffering from breast and ovary problem but no one took care. In past her husband kept her in Punjab and Gujrat where he used to harass her sexually by performing unnatural sex and he also used to assault her there and lastly in June 2014 he left her at Kolkata. In March 2016 at request of her husband she came to her matrimonial home (sasural), where she was also tortured and became ill. Thereafter her father came and took her to Kolkata.

3. On the basis of aforesaid written complaint filed before learned C.J.M. Muzaffarpur, Complaint case



No. C-1738/2008 was registered, where cognizance has been taken for the offences under Sections 323, 498-A and 120-B of IPC.

4. Learned counsel appearing for the petitioners submitted that petitioners are in-laws and living separately. In support of his submission, it is pointed out that petitioner nos. 1 and 2, who are father-in-law and mother-in-law, respectively live at Siliguri after retirement being an employment of Fire Brigade Department, Siliguri, West Bengal. It is also pointed out that petitioners nos. 3 and 5 are elder brothers where petitioners nos. 4 and 6 are their wives who are living separately much before the marriage of O.P. No. 2. It is also submitted that implication of petitioners appears being relatives and in-laws where allegation of committing cruelty upon O.P. No. 2 and also of raising demand of dowry is appearing very much general and omnibus. It is submitted that present petition filed with ulterior and oblique motive just to harass the family



members of the husband of O.P. No. 2.

5. In support of his submissions, learned counsel relied upon the legal reports of the Hon'ble Supreme Court as reported in the matter of **Abhishek vs. State of Madhya Pradesh** reported in **2023 SCC OnLine SC 1083**.

6. Heard learned APP appearing for the State.

7. Learned counsel appearing for the O.P. No. 2, while opposing the application submitted that petitioners being in-laws actively participated during occurrence and their alleged involvement cannot be denied.

8. It would be apposite to reproduce relevant Paragraph Nos. 12, 13, 14 ,5, 16 & 17 of **Abhishek Case (supra)**, which read as:-

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 petitioners claimed on affidavit that they are residing separately with husband of O.P. No.2 having no connection with their daily and domestic affairs whereas the allegation of committing cruelty and also of raising demand of dowry is appearing general and omnibus *qua* petitioners. Narration of complaint petition also suggests that complainant lived with her husband only at different places of country. Therefore, by taking a guiding note of **Abhishek case (supra)**, impugned order of taking cognizance dated 21.12.2018 with all its consequential proceedings, *qua*, all above named petitioners arising thereof as passed in connection with Tr. No. 1943 of 2019 arising out of Complaint Case No. C-1738 of 2018 pending before learned C.J.M., Muzaffarpur 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, immediately.

(Chandra Shekhar Jha, J)

Archana/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.04.2024
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