

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2826 of 2022**

Arising Out of PS. Case No.-73 Year-2019 Thana- MAHILA P.S. District- Saharsa

1. Rajeev Kumar Jha, Son of Nikhil Prasad Jha, Resident of Kalyani Kunj, Hatiya Gachhi Polytechnic Road, P.S.- Saharsa, District- Saharsa.
2. Nikhil Prasad Jha, Son of Late Kulbhushan Jha, Resident of Kalyani Kunj, Hatiya Gachhi, Polytechnic Road, P.S.- Saharsa, District- Saharsa.
3. Kalyani Devi, Wife of Nikhil Prasad Jha, Resident of Kalyani Kunj, Hatiya Gachhi Polytechnic Road, P.S.- Saharsa, District- Saharsa.

... .. Petitioners

Versus

1. The State of Bihar
2. Puja Jha @ Puja Kumari, Daughter of Surendra Narayan Jha, Resident of Hatiya Gachhi, Manas Nagar, Ward No. -32, P.S.- Saharsa, District- Saharsa.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr.Prince Kumar Mishra, Advocate Mr.Vikash Kumar Jha, Advocate
For the Opposite Party/s	:	Mr.Satya Nand Shukla, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT**

Date : 06-02-2025

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The present petition is being filed for quashing of the First Information Report bearing Mahila P.S. Case No. 73 of 2019 dated 10.11.2019 registered for the offence under Section 498(A), 323, 504, 506, 34 of the Indian Penal Code and section 3/4 of the Dowry Prohibition Act, 1961 as well as charge-sheet No. 31/2020 dated 25.11.2020 under Sections



498(A), 323, 504, 506, 34 of the I.P.C. and Section 3/4 of the Dowry Prohibition Act, pending in the court of learned Judicial Magistrate, 1st Class, Saharsa, as the parties have been mutually divorced from each other under section 13B of the Hindu Marriage Act, 1955 and decided to withdraw all the cases against each other and pursuant thereto, both sides have filed compromise petition before the learned trial court.

3. Learned counsel for the petitioner submitted that dispute between the parties have already settled, as a result of which Rs. 13,51,000/- (Rupees Thirteen Lakhs Fifty One Thousand) was paid to the opposite party no. 2 as one time settlement for her maintenance.

4. It is further submitted that after receiving one time maintenance amount, as aforesaid, the marriage between the parties has been dissolved as per provision available under section 13B of the Hindu Marriage Act, 1955, by the learned Principal Judge, Family Court, Saharsa through Divorce Case No. 15 of 2020 vide order dated 19.02.2021. It is also pointed out that both parties have amicably resolved to withdraw the criminal prosecution pending between them.



5. In this context, it is further pointed out by learned counsel that present F.I.R. discloses the cognizable offence which is non-compoundable in nature. It is submitted that in view of compromise and as the parties have dissolved their marriage by way of mutual consent against one time maintenance amount, as aforesaid, continuing with this litigation before the learned trial court would only amount to abuse of the process of the court.

6. In support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Abhishek Vs. State of M.P.** reported in **2023 SCC Online 1083.**

7. Learned A.P.P. for the State has opposed the quashing petition but could not denied the factum of compromise.

8. In terms of order dated 12.02.2024, paper publication was made, despite of that opposite party no. 2 failed to join the present proceeding and this Court is satisfied that notice, as issued to opposite party no. 2, deemed to be validly served upon her.



9. It would be apposite to reproduce **para 12 to 17** of **Abhishek's** case (supra), for better understanding of the legal position, which are 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 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.”

10. In view of aforesaid factual and legal discussion as the dispute between the parties has already appears settled, where marriage of petitioner no. 1 has dissolved with opposite party no. 2/wife through mutual divorce as it was passed by learned Principal Judge, Family Court, Saharsa through Divorce Case No. 15/2020 dated 19.02.2021 against one time maintenance amount of Rs. 13,51,000/- which appears duly received by opposite party no. 2, where petitioner nos. 2 and 3 are in-laws of opposite party no. 2 and it appears that they are facing allegation *prima-facie* for the reason that they are the parents of petitioner no. 1, accordingly, this Court is convinced with the submission that continuing with the present litigation before the learned trial



court would only amount to abuse of the process of the court.

11. Hence, the First Information Report bearing Mahila P.S. Case No. 73 of 2019 dated 10.11.2019 as well as charge-sheet No. 31/2020 dated 25.11.2020 and also order of cognizance dated 10.05.2022 passed by learned S.D.J.M., Saharsa in connection with Criminal Case No. 2668/2019 arising out of Mahila P.S. Case No. 73 of 2019 *qua* petitioner stands quashed/set-aside.

12. Accordingly, this application stands allowed.

13. I.A. No. 01 of 2022 stands disposed of in terms of aforesaid order.

14. Let a copy of this judgment be sent to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2025
Transmission Date	07.02.2025

