

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2109 of 2022

Arising Out of PS. Case No.-297 Year-2019 Thana- PIRBAHOR District- Patna

Ravi Saluja, Son of Trilochan Singh, Resident of Mohalla-Saluja Niwas,
Khazanchi Road, P.S.- Pirbahor, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar
2. Jyoti Kaur, D/o Late Gurpal Singh and Wife of Rohan Kumar @ Nitin Shrivastava, Resident of Door No.- C/2, Sahara Road, East of Devi Asthan, P.S.- Agamkuan, District- Patna.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Krishna Chandra, Advocate
For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 05-03-2025

Heard learned counsel for the petitioner and learned
APP for the State.

2. The present application has been preferred by the petitioner for quashing of the order dated 23.12.2019 passed by learned Chief Judicial Magistrate, Patna in connection with G.R. No.4047 of 2019 arising out of Pirbahore P.S. Case No.297 of 2019, whereby the learned Jurisdictional Magistrate has taken cognizance for the offences punishable under Sections 341, 323, 504, 506 and 498-A read with 34 of the Indian Penal Code (in short 'IPC') against the



petitioner.

3. The case of the prosecution, in brief, is that one Jyoti Kaur/informant of the case submitted a written report to the Officer-in-charge of Pirbahore Police Station stating therein that her husband, namely, Ravi Saluza (petitioner) used to treat her badly and threatened to her life. The informant has two children out of the said wedlock but, her husband does not bear the expenses of their study. On being asked, her husband suggest to bring the money from her parents, whereas her husband is earning well and working as an Event Manager. She further alleged in the written report that in the morning when she asked for money to purchase the vegetables, he assaulted her badly and when her mother came in rescue, she was also assaulted by him. She further alleged that her mother-in-law and father-in-law also supported the act of their son.

4. It is submitted by learned counsel appearing on behalf of the petitioner that marriage between the parties now stands dissolved under their mutual consent as provisioned under Section 13B(1) of the Hindu Marriage Act, 1955.



During course of argument, learned counsel referred to para '7' of the judgment of divorce as passed by learned Principal Judge, Family Court, Patna in Matrimonial case No. 107 of 2020, which is as under:

"7. Therefore, from the foregoing discussions, Court comes to the conclusion that both petitioner and opposite party are entitled to get decree of divorce on their mutual consent under Section 13-B of the Hindu Marriage Act and accordingly, the marriage solemnized on 10.11.2008, between both the parties is liable to be dissolved by decree of divorce on mutual consent as payed for, It is therefore.

ORDERED

that the matrimonial case be and the same is hereby decreed in terms of section 13-B of the Hindu Marriage Act, 1955. The marriage between the petitioner no.1, Ravi Saluja and petitioner no.2, Jyoti Kaur solemnized on 10.11.2008, is hereby dissolved by decree of divorce on the basis of mutual consent."

5. In view of aforesaid context, it is also submitted by learned counsel that petitioner has paid maintenance amount of Rs.11 lakhs to O.P. No.2 as one time settlement by way of permanent alimony and also paid cash of Rs.5 lakhs in favour of her daughter, and as such all dispute between the parties appears settled.

6. In view of aforesaid, it is submitted by learned counsel that continuing with present criminal proceeding *qua* petitioner before learned trial court would only amount to



abusing the process of court of law, and, therefore, same be quashed. In support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Abhishek vs. State of Madhya Pradesh** reported in **2023 SCC Online SC 1083**.

7. It would be apposite to reproduce para **13, 14, 15, 16 & 17** of the **Abhishek's case (supra)**, which reads as under:

"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 **State of Haryana and Ors. Vs. Bhajan Lal and Ors [(1992) Supp (1) SCC 335]**, 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.”

8. In view of aforesaid legal and factual submission and also by taking note of the fact as parties settled their



issues, where petitioner paid maintenance by way of permanent alimony to O.P. No.2 and also marriage between the parties stands dissolved by way of mutual divorce, accordingly, continuing with the present proceeding before the learned trial court in view of **Abhishek’s case (supra)**, would only amount to abuse of the process of the court.

9. Accordingly, the impugned cognizance order dated 23.12.2019 passed by learned Chief Judicial Magistrate, Patna in connection with G.R. No.4047 of 2019 arising out of Pirbahore P.S. Case No.297 of 2019 *qua* petitioner is hereby quashed/set-aside.

10. Accordingly, present quashing petition stands allowed.

11. Let a copy of this judgment be sent to the learned trial court/concerned court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06-03-2025
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