

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6051 of 2022

Arising Out of PS. Case No.-111 Year-2019 Thana- PARSABAZAR District- Patna

CHANDAN KUMAR Son of Late Raj Kishor Prasad Resident of
Village - Chandan Palace, New Etwarpur Parsa, P.s.- Parsa Bazar in the
Distt. of Patna.

... .. Petitioner

Versus

1. The State of Bihar
2. Anju Kumari @ Payal W/o Chandan Kumar , D/o Nagendra Kumar
Resident of Village - Nirala Nagar Colony Digha, P.s.- Digha, P.o.-
Digha, Dist.t- Patna.

... .. Opposite Party

Appearance :

For the Petitioner/s :	Mr.Gopal Prasad Roy, Advocate
For the Opposite Party/s :	Mr.Md. Mushtaque Alam, APP
	Mr.A.K.K. Sahay, Advocate
	Mr.Rahul Raj, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 04-03-2025

Heard learned counsel for the petitioner and learned
A.P.P. for the State duly assisted by learned counsel for the
informant/opposite party no. 2.

2. The present quashing application has been
preferred for quashing of the order dated 25.03.2021 passed
by learned Sub-Judge-VIII-cum-A.C.J.M., Patna, whereby
learned Magistrate took cognizance against the petitioner and
others for the offences punishable under section 341, 342,
323, 504, 498A/34 of the Indian Penal Code and Section 3/4



of the Dowry Prohibition Act in connection with Parsa Bazar P.S. Case No. 111 of 2019.

3. The brief facts of the case is that the informant/opposite party no. 2 was married with petitioner on 03.12.2017. Parents of the informant has given ornaments and other gifts to the tune of Rs. 20 Lakh in marriage. After marriage the informant went to her sasural, where everything was good for one week, whereas after three days petitioner asked informant to bring further Rs 5 Lakhs as dowry because he has lost his job. Which was denied by O.P. No. 2, upon which petitioner became violent and started abusing to the informant/opposite party no.2.

4. The informant further alleged that when she asked for help from her in-laws, they too supported the petitioner and thereafter she was tortured on daily basis, physically and mentally. After one month, petitioner dropped informant to her *maike* and returned to Bangalore. It is stated that after 4 days, the petitioner asked the informant not to come to Bangalore ever, thereafter, parents of the informant persuaded and convinced them, then, the petitioner took her to



Banglore, but there she was also beaten and abused by the petitioner and demanded money and she was sent back to her parental house at Patna. It is stated that again on 12th July she went to Banglore along with her cousin brother where mother in-law and petitioner abused and beat her, which goes for almost one week and, all of a sudden, on one night they tried to kill her and, thereafter, she informed to police and her parents. The informant further alleged that she came back to Patna from Bangalore with her parents. It is stated by the informant that when she received information regarding death of her father-in-law, she went to her sasural, where she was also abused by the accused persons.

5. On the basis of aforesaid written information, First Information Report (in short 'F.I.R.') being Parsa Bazar P.S. Case No. 111/2019 for the offences punishable under Section 341, 323, 504, 384, 385, 498(A)/34 of the I.P.C. and Section 3/4 of the Dowry Prohibition Act, was registered. After investigation, police submitted charge-sheet against petitioner for aforesaid offences.

6. 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 para '7' of the judgment of divorce as passed by learned Principal Judge, Family Court, Patna in Matrimonial case No. 1290 of 2023, which is as under:

"7. The record also reveals that parties have settled all their claims and disputes amicably in respect of maintenance (past, present and future) and permanent alimony. The details deposed by them on 03.05.2024 in their statements as PW.1 applicant no.1 and P.W.1 applicant no. 2 and it is suffice to say that these would be read as part of this order."

7. In view of aforesaid, it is submitted by learned counsel that continuing present proceeding *qua* petitioner before learned trial court would only amount to abusing the process of court and 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**.

8. 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.”

9. 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 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.



10. Accordingly, the impugned cognizance order dated 25.03.2021 as passed by learned Sub-Judge-VIII-cum-A.C.J.M., Patna in connection with Parsa Bazar P.S. Case No. 111/2019, G.R. No. 2612/2019 *qua* petitioner, stands quashed/set-aside.

11. Accordingly, present quashing petition stands allowed.

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

(Chandra Shekhar Jha, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.03.2025
Transmission Date	04.03.2025

