

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18723 of 2024**

Arising Out of PS. Case No.-402 Year-2022 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. Sona Devi W/o Late Indradev Rajak, R/o Village-Chaklalsaahi, P.S-Tajpur, P.O.- Hilai, Distt.- Samastipur, Bihar.
 2. Deepak Kumar Rajak, S/o Late Indradev Rajak, R/o Satyanarayan Building, Narawala Road, Line No. 02, Ullubadi, P.S- Paltan Bazaar, Distt.- Kaamroop, Assam.

... .. Petitioners

Versus

1. The State of Bihar
2. Puja Kumari, D/o Ramesh Kumar Rajak, presently Resident of Village-Koylaam, P.S- Kalayanpur, Distt.- Samastipur, Bihar.

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. Vikash Kumar Pankaj, Advocate
For the State	:	Md. Fahimuddin, APP
For the O.P. No.2	:	Mr. Vinay Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 25-06-2025

Heard learned counsel for the petitioners, learned
APP for the State and learned counsel appearing for the O.P.
No.2/complainant.

2. The present application has been filed by the
petitioners for quashing of the order taking cognizance dated
22.06.2022 passed by learned Sub-divisional Judicial



Magistrate, Samastipur in T.R. No.2471 of 2023 arising out of Complaint Case No.402 of 2022 for the offences punishable under Sections 498-A of the Indian Penal Code (in short 'IPC') and Section 4 of the Dowry Prohibition Act against the petitioners and others

3. As per brief case of prosecution, the marriage of complainant/O.P. No.2 solemnized with son of petitioner no.1 on 25.05.2013 as per Hindu Rites and Customs, where certain ornaments as gifts along with cash of Rs. 5 lakhs was given. Out of said wedlock, the complainant/O.P. No.2 gave birth to a female child on 04.07.2014. After birth of female child some more dowry was demanded from O.P. No.2 by her husband and petitioners, which upon non-fulfilment, O.P. No.2 was subjected to physical and mental cruelty and finally she was ousted from her matrimonial home on 06.12.2021

4. It is submitted by learned counsel appearing for the petitioners that both petitioners are in-laws and they are living separately in another flat at Guwahati in Assam. It is pointed out that as relations of O.P. No.2 became strained, as she suspected that her husband having affairs with one Ranita



Deka and when same was objected by O.P. No.2, she was assaulted physically. It is submitted that out of said matrimonial discord and strained relations, entire family including the petitioners, who are in-laws were implicated with present false case. It is submitted that the allegation *qua* raising demand of extra dowry of Rs.5 lakhs for purchasing flat and also alleged cruelty appear very much general and omnibus against petitioners, as the same appears specific against husband of O.P. No.2/complainant. It is submitted that in view of legal ratio as available through **Abhishek vs. State of Madhya Pradesh** reported in **2023 SCC Online SC 1083**, the impugned cognizance order dated 22.06.2022 against both above-named petitioners be set aside/quashed.

5. Mr. Vinay Kumar Mishra, learned counsel appearing for O.P. No.2/complainant submitted that being mother-in-law and brother-in-law, both petitioner nos. 1 and 2 also committed cruelty upon O.P. No.2. It is also submitted that the material available on record is sufficient to constitute a *prima facie* case against both petitioners.

6. It would be apposite to reproduce para-13, 14,



15, 16 and 17 the legal report of Hon'ble Supreme Court as available through **Abhishek case** (supra), which are 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 v. Bhajan Lal*, [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.”

7. In view of aforesaid factual and legal submissions and by taking note of fact as petitioner no.1 is mother-in-law and petitioner no.2 is brother-in-law (Bhaisur), who claimed to be living separately, which is not disputed by learned counsel appearing for O.P. No.2 and moreover the thrust of allegation appears available against husband of O.P. No.2/complainant and these petitioners facing general and omnibus allegation *qua* alleged cruelty said to be committed upon O.P. No.2, accordingly, by taking a guiding note of **Abhishek case** (supra), the impugned order taking cognizance dated 22.06.2022 as passed by learned Sub-divisional Judicial Magistrate, Samastipur in T.R. No.2471 of 2023 arising out of Complaint Case No.402 of 2022 *qua* petitioners is hereby quashed/set aside.

8. Hence, the present quashing application stands allowed. Pending application(s), if any, stands disposed of.

9. Let a copy of the judgment be communicated to



the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.06.2025
Transmission Date	25.06.2025

