

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15486 of 2024

Arising Out of PS. Case No.-1 Year-2021 Thana- MAHILA P.S. District- Patna

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Guddi Devi, Wife of Virendra Kumar, Resident of Village- Naya Bhojpur,
P.S.- Naya Bhojpur, Dist.- Buxar, At present Resident of Mohalla- Indrapuri
Road No. 10, P.S.- Patliputra, Dist.- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sweey Kumari, Wife of Guddu Kumar, D/o Ajay Kumar, Resident of
Mohalla- House No. 19 Adri Lane, in-front of A.N. Collage, P.S.-
Shrikrishnapuri, Dist.- Patna, At present residing at Village- Nawada Purvi
Tola, P.O.- AIIMS, P.S.- Phulwari Sharif, Dist.- Patna, Pin Code- 801507

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Virendra Kumar, Advocate Mr. Ashok Kumar Sinha, Advocate Mr. Pranav Kumar, Advocate
For the State	:	Mr. Ajit Kumar, APP
For the O.P. No.2	:	Mr. Shrawan Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT
Date : 03-03-2025

The present application has been filed by the
petitioner for quashing of the order dated 04.08.2021 passed
by learned Judicial Magistrate-1st Class, Patna in connection
with Mahila P.S. Case No.1 of 2021 (G.R. No.155 of 2021),
whereby the learned jurisdictional Magistrate has taken
cognizance against the petitioner and others for the offences



punishable under Sections 498-A, 504, 506 read with 34 of the Indian Penal Code (in short 'IPC') as well as Sections 3 and 4 of the Dowry Prohibition Act and summoned the petitioner to face trial.

2. The case of prosecution, in brief, which is based on the written report of one Sweety Kumari, informant of the case given to the S.H.O. of Mahila Police Station on 04.01.2021 at about 16.00 P.M., alleging, inter alia, that she solemnized marriage on 22.02.2019 with Guddu Kumar as per Hindu rites and customs and on the occasion of marriage, the father of informant given cash of Rs.1,50,000/-, ornaments of old and silver worth of Rs.1,00,000/-, household articles as utensils, clothes etc. worth of Rs.1,00,000/- as per gift and presentation and also given cash of Rs.2,00,000/- for expenses for the marriage. She further alleged that due to expiry of parents-in-law, all the demand was made by *Vaishur*, namely, Pappu Kumar Gupta because he is *karta* of family. After marriage, when the informant went to her matrimonial home then, Rani Devi (*gotani*), Deepak Kumar (Dewar), Guddi Devi (petitioner) and their



relatives started murmuring due to less dowry and after three days of marriage Rani Devi (gotani) engaged her in domestic work as per instigation of petitioner, Guddi Devi and behaved with informant like servant.

2.1. It is further alleged that Pappu Kumar and husband Guddu Kumar used to abuse with unparliamentary language to the father of the informant for not providing the motorcycle and pressurized the informant to bring motorcycle from her parents. Thereafter, the informant disclosed the matter to her father and maternal uncle, then they gave Rs.62,000/- to the husband of informant and *Vaishur* for purchase of motorcycle but, they could not purchased motorcycle from said money and repaid his loan amount. She further alleged in the written report that after some days, while the informant conceived pregnancy, then her husband advised her to abort the pregnancy showing his weak financial condition, her husband used to assault the informant and locked her in a room without supplying food with intent to terminate her pregnancy.

2.2. She further alleged that on 16.12.2019, the



informant gave birth to a female child but after receiving information regarding birth of female child, no one in her family came to see her. Father of the informant bear the entire expenses of hospital. After receiving the information regarding birth of female child, her *vaishur*, *gotani*, *nanad* and husband were not pleased because they don't have desire for female child. It is further alleged that due to birth of female child, the husband of informant and *Viashur* were not pleased and pressurized her for demand of Rs.5,00,000/- from her father and nursing support of baby and for establishing a new business in the name of his baby but, on objection of informant, they obtained signature of informant on 8-10 blank papers and left the informant with her baby in the rented house due to that, the health condition of informant became deteriorated. Thereafter, the father and maternal uncle of informant took her at matrimonial home, where her *Vaishur*, *gotani* and husband refused to keep her with them and her gotani instigated her to commit suicide, if informant will stay in the house and her husband refused to keep her with him without fulfilment of Rs.5,00,000/- for



establishment of business and also started to give threatening for re-marriage.

2.3. It is further alleged that on 19.09.2020, the informant went to her matrimonial house along with her baby but, she was prevented to enter in the house. The informant stayed there for whole day without food and water then, on information of local people, the police reached there and took her to police station and call her husband through mobile phone but, her husband and Vaishur could not reach there and absconded from the house after locking the door. She further alleged that behind the occurrence, there is instigation of her *Vaishur* Pappu Kumar and Gotani Rani Kumari.

3. It is submitted by learned counsel appearing for the petitioner that from perusal of the FIR, no cognizable offence is made out against the petitioner, who is a married sister-in-law of O.P. No.2. It is submitted that the petitioner has already married much before the marriage of O.P. No.2 with his brother and she is living separately without having any concern with daily and domestic affairs of O.P. No.2. It is submitted that merely being relative of her husband, O.P.



No.2 has implicated the petitioner with present case with a general and omnibus allegation that she instigated the other family members to behave in bad manner with O.P. No.2 and asked her to do domestic work. The aforesaid narration as raised through FIR not appears to make out any cognizable offence, therefore, the present FIR is fit to be quashed in view of judgment of Hon'ble Supreme Court as available through **State of Haryana v. Bhajan Lal [1992 Supp (1) SCC 335]**.

4. Learned APP duly assisted by Mr Shrawan Kumar, learned counsel appearing for O.P. No.2, while opposing the quashing petition could not disputed the submissions as advanced by learned counsel appearing for petitioner.

5. It would be apposite to reproduce para 102 of the **Bhajan Lal case** (supra), which is as under:-

"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 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”.

6. In view of aforesaid factual and legal submissions and by taking note of allegation as raised through FIR, it appears that no cognizable offence *prima facie* appears to be made out against the petitioner, being married sister-in-law, who is living separately from O.P. No.2 and her husband much before their marriage. Implication of petitioner appears out of oblique and ulterior motive being relative of sister of husband of opposite party No.2.

7. Accordingly, the impugned order taking cognizance dated 04.08.2021 passed by learned Judicial Magistrate-1st Class, Patna in connection with Mahila P.S. Case No.1 of 2021 (G.R. No.155 of 2021) *qua* petitioner is hereby quashed and set aside.



8. The application stands allowed.

9. Let a copy of the judgment be communicated to
the trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04-03-2025
Transmission Date	04-03-2025

