

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17387 of 2025

Arising Out of PS. Case No.-308 Year-2022 Thana- SUGAULI District- East Champaran

1. Jugnu @ S.K. Md. Irshad @ Irshad Alam Son Of Sk. Sohail Resident Of Village- Nimuai, P.S.- Sugauli, District- East Champaran.
2. Nurjahan Khatoon Wife Of Sk. Sohail Resident Of Village- Nimuai, P.S.- Sugauli, District- East Champaran.
3. Sabana Khatoon Wife Of Sk. Raish Alam @ Maulvi Resident Of Village- Nimuai, P.S.- Sugauli, District- East Champaran.
4. Afsana Khatoon @ Most. Afsana Khatoon Wife Of Late Md. Asif, D/O- Sk. Sohail Resident Of Village- Nimuai, P.S.- Sugauli, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Safi Ahmad Son Of Late Md. Hussain Resident Of Village- Itawa, P.S.,- Pakaridayal, Distt.- East Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhurendra Kumar, Adv.

For the Opposite Party/s : Mr. Sanjay Kumar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 21-03-2025

Heard the parties.

2. The present quashing petition has been preferred to quash the FIR of Sugauli P.S. Case No. 308 of 2022 dated 03.07.2022 registered for the offences under sections 364, 302, 201, 34 and 504 of the Indian Penal Code against the petitioners.

3. The prosecution story in brief is that the



informant, Safi Ahmad's daughter namely Najni Khatoon got married with Sk. Saddam Hussain on 05.08.2014 as per Muslim rites and rituals and after marriage she went to her *sasural* and one son was also born out of said wedlock. It is further alleged that after few days of marriage, the accused persons started demanding Rs. 5 lakhs and upon non-fulfillment of the same, she was subjected to cruelty both physically as well as mentally. It is further alleged that on 20.06.2022, at 2.00 P.M., Najani Khatoon called her father that if you do not give them money, they will kill me and on 22.06.2022 at 11.30 A.M., when the informant went to meet her daughter he found that her daughter and maternal grand son were missing. He is suspicious that the accused persons have killed them.

4. After investigation, the charge-sheet was submitted by police for the offences under sections 341, 342, 323, 365, 498A, 504, 506, 34 of the IPC and 3/4 of the D.P Act against the petitioner and one another co-accused and thereafter the cognizable was also taken by the learned Judicial Magistrate on 19.09.2022 for the offences under



sections 341, 342, 323, 365, 498A, 504, 506, 34 of the IPC and for same offences the charges were also framed by Trial Court.

5. It is submitted by learned counsel that it is not a case of murder after kidnapping as during the course of investigation victim was recovered from home of her relative, whereafter she stated that out of matrimonial discord she went to the house of her relative. It is submitted that O.P. No. 2, namely, Saddam Hussain/husband put on trial being main co-accused in present case and was acquitted through Trial No. 2503 of 2023, G.R. Case No. 388 of 2022 dated 14.03.2023 wherein victim daughter of the informant, namely, Najani Khatoon examined as P.W. 2. It appears from the impugned judgment that she supported the physical and mental torture in her cross-examination but subsequently she denied any such demand and mental torture in her examination in-chief. Moreover P.W. 1 and P.W. 2 was accepted the factum of compromise as duly signed by the parties during trial. While concluding argument it is submitted that matter now compromised between parties and petitioners



are family members of husband of daughter of O.P. No. 2, namely, Saddam Hussain.

6. In the aforesaid background, it is submitted by learned counsel that the present petitioners are in-laws facing general and omnibus allegation *qua* alleged cruelty and in view of all such aforesaid facts, nothing survives in this matter *qua* petitioners and therefore continuing present proceedings before the court below would only amount to abuse of process of court of law as no such offence alleged through appears to be *prima facie* made out against the petitioners.

7. It would be apposite to reproduce para-102 of the legal report of ***State of Haryana and Ors. Vs Bhajan Lal [1992 Suppl. (1) SCC 335]***, 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”.

8. Learned counsel for the petitioner also relied upon para-13 of the legal report of ***Kahkashan Kausar v. State of Bihar*** reported in ***(2022) 6 SCC 599***, which is as under:-

“13. Previously, in the landmark judgment of this Court in Arnesh Kumar v. State of Bihar [Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273 : (2014) 3 SCC (Cri) 449] , it was also observed : (SCC p. 276, para 4)

“4. There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-AIPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-AIPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In quite a number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested.”

9. In view of the aforesaid factual and legal submissions and by taking note of fact as this case upon



investigation not found true for the offences as alleged through FIR i.e., for kidnapping or murder, rather was found for offences punishable under Section 498A of the IPC, where in furtherance of compromise the husband of the daughter of the informant was acquitted through Trial No. 2503 of 2023 dated 14th March, 2023 as passed by SDJM, Sadar, Motihari accordingly, continuing this process before the trial wua petitioner who are in-laws court would only amount to abuse the process of law.

10. Accordingly, FIR of Sugauli P.S. Case No. 308 of 2022 dated 03.07.2022 with all consequential proceedings *qua* petitioners before learned trial court stands quashed/ set aside.

11. Hence, this application stands allowed.

12. TCR, if any, be returned to the learned Trial Court alongwith the copy of this judgment.

(Chandra Shekhar Jha, J)

uttam/-

AFR/NAFR	NAFR
CAV DATE	NA
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