

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23249 of 2024

Arising Out of PS. Case No.-14 Year-2022 Thana- MAHILA PS District- Jehanabad

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1. Sachida Nand Sharma Son of Late Lakshmi Singh, Resident of Village- Mithapur, P.O.- Lai, P.S.- Bihta, District- Patna, Bihar-801112.
 2. Sunaina Devi Wife of Sachida Nand Sharma Resident of Village- Mithapur, P.O.- Lai, P.S.- Bihta, Mithapur, District- Patna, Bihar-801112.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Indu kumari Singh w/o- Chandan Kumar, D/o- late Arjun Singh, R/O- village Narayanpur, P.O.- Patiyava, P.S. - Shakurabad, Distt – Jehanabad.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Muskan Singh
For the Opposite Party/s : Mr.Vinod Shanker Modi

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 14-05-2025

Heard learned counsel appearing on behalf of the parties.

2. The present application has been preferred by the petitioners for quashing the cognizance order dated 23.11.2023 as passed by the Sub-Divisional Judicial Magistrate, Jehanabad arising out of Mahila P.S. Case No. 14/2022 for the offences punishable under Sections 498A, 506, 376, 379 and 34 of the I.P.C. and $\frac{3}{4}$ of the Dowry Prohibition Act.

3. The case of the prosecution in brief is that



informant/O.P. No. 2, namely Indu Kumari Singh was married with Chandan Kumar, son of petitioners as per Hindu rites and ritual and after marriage she joined her matrimonial home, where she lived for only 10 days. Thereafter, she was tortured by petitioners in connection with demand of dowry raised for Rs. 5 lacs and one four wheeler vehicle. She further alleged that after some days, she came to know that her husband Chandan Kumar has illicit relation with one Nilam Roy and when she told about this fact to her in-laws, they were adamant to perform marriage of her husband with said girl and told that her marriage will be performed with their second son namely, Kunal Kumar. On 10.11.2021 when her husband Chandan Kumar had gone to Kurji, Danapur, on the same night Kunal Kumar (brother-in-law) made physical relation with her without her consent and when she pressurised him for marriage, then the petitioners and other co-accused persons ousted her from matrimonial home after physical assault. She further alleged that she alongwith her brother came back to her matrimonial home on 13.03.2022 and while returning so, her in-laws assaulted them brutally.

4. It is submitted by learned counsel appearing for the petitioners that petitioners are in-laws and they are facing very general and omnibus allegation *qua* alleged cruelty as committed



upon opposite party no. 2. It is submitted that as a matter of subsequent development, the dispute and differences of opposite party no. 2 was compromised with her husband, namely Chandan Kumar and thereafter she is living happily with him since last more than one year. It is submitted that in view of aforesaid development, continuing of present proceedings would only amount to abuse of process of court of law and, therefore, cognizance order *qua* petitioners be set aside/quashed. In support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as passed in the matter of ***Abhishek vs. State of Madhya Pradesh*** reported in ***2023 SCC Online SC 1083***.

5. Mr. Anand Kumar Ojha, learned senior counsel appearing for opposite party no. 2 submitted that the allegation of cruelty as per FIR is also available against petitioners. It is submitted that in fact these petitioners were responsible for the initiation of entire events. However, the factum of compromise as submitted above by learned counsel appearing for petitioners could not disputed by Mr. Ojha appearing for opposite party no. 2. In support of his submission, Mr. Ojha relied upon the legal report of Hon'ble Supreme Court as available through ***Samar Ghosh v. Jaya Ghosh***, reported in ***(2007) 4 SCC 511***.



6. It would be apposite to reproduce para-13, 14, 15, 16 & 17 of the legal report of Hon'ble Supreme Court passed in the case of **Abhishek's 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 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.”

7. It would be apposite to reproduce para-101 of the legal report of Hon’ble Supreme Court passed in the case of **Samar Ghosh**, (*supra*) which are as under:-

"101. *No uniform standard can ever be laid down for guidance, yet we deem it appropriate to enumerate some instances of human behaviour which may be relevant in dealing with the cases of “mental cruelty”. The instances indicated in the succeeding paragraphs are only illustrative and not exhaustive:*

(i) On consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other could come within the broad parameters of mental cruelty.

(ii) On comprehensive appraisal of the entire matrimonial life of the parties, it becomes



abundantly clear that situation is such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with other party.

(iii) Mere coldness or lack of affection cannot amount to cruelty, frequent rudeness of language, petulance of manner, indifference and neglect may reach such a degree that it makes the married life for the other spouse absolutely intolerable.

(iv) Mental cruelty is a state of mind. The feeling of deep anguish, disappointment, frustration in one spouse caused by the conduct of other for a long time may lead to mental cruelty.

(v) A sustained course of abusive and humiliating treatment calculated to torture, discommode or render miserable life of the spouse.

(vi) Sustained unjustifiable conduct and behaviour of one spouse actually affecting physical and mental health of the other spouse. The treatment complained of and the resultant danger or apprehension must be very grave, substantial and weighty.

(vii) Sustained reprehensible conduct, studied neglect, indifference or total departure from the normal standard of conjugal kindness causing injury to mental health or deriving sadistic pleasure can also amount to mental cruelty.

(viii) The conduct must be much more than jealousy, selfishness, possessiveness, which causes unhappiness and dissatisfaction and emotional upset may not be a ground for grant of divorce on the ground of mental cruelty.

(ix) Mere trivial irritations, quarrels, normal wear and tear of the married life which happens in day-to-day life would not be



adequate for grant of divorce on the ground of mental cruelty.

(x) The married life should be reviewed as a whole and a few isolated instances over a period of years will not amount to cruelty. The ill conduct must be persistent for a fairly lengthy period, where the relationship has deteriorated to an extent that because of the acts and behaviour of a spouse, the wronged party finds it extremely difficult to live with the other party any longer, may amount to mental cruelty.

(xi) If a husband submits himself for an operation of sterilisation without medical reasons and without the consent or knowledge of his wife and similarly, if the wife undergoes vasectomy or abortion without medical reason or without the consent or knowledge of her husband, such an act of the spouse may lead to mental cruelty.

(xii) Unilateral decision of refusal to have intercourse for considerable period without there being any physical incapacity or valid reason may amount to mental cruelty.

(xiii) Unilateral decision of either husband or wife after marriage not to have child from the marriage may amount to cruelty.

(xiv) Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair. The marriage becomes a fiction though supported by a legal tie. By refusing to sever that tie, the law in such cases, does not serve the sanctity of marriage; on the contrary, it shows scant regard for the feelings and emotions of the parties. In such like situations, it may lead to mental cruelty.”

8. Considering the aforesaid factual and legal submissions and by taking note of fact as petitioners are in-laws,



against whom the allegation as to oust opposite party no. 2 from matrimonial home appears very general and omnibus and, moreover, as a matter of subsequent development, opposite party no. 2 under compromise started to live together with her husband namely, Chandan Kumar, son of petitioners, according by taking note of **Abhishek’s case (supra)**, order of cognizance order dated 23.11.2023 passed by the Sub-Divisional Judicial Magistrate, Jehanabad arising out of Mahila P.S. Case No. 14/2022 is hereby set aside and quashed *qua* both above named petitioners with all its consequential proceedings.

9. Accordingly, present quashing petition stands allowed.

10. Let copy of this order be sent to the trial court, without delay.

(Chandra Shekhar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.05.2025
Transmission Date	14.05.2025

