

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24209 of 2023

Arising Out of PS. Case No.-32 Year-2019 Thana- MAHILA P.S. District- Purnia

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1. Binod Kumar @ Binod Kumar Singh Son of Late Bishnu Deo Singh R/o Near Flour Mill, Gayatri Nagar, P.S.- Sadar Thana, Purnia, Dist.- Purnia, Bihar-854301
 2. Veena Devi Wife of Binod Kumar Singh Resident of Near Flour Mill, Gayatri Nagar, P.S.- Sadar Thana, Purina, Dist.- Purnia, Bihar-854301

... .. Petitioner/s

Versus

1. The State of Bihar
2. Swati Kumari Daughter of Umesh Kumar Singh R/O Madhubani Police Station-Madhubani, District-Purnia

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Sinha, Sr. Adv
	:	Mr. Saurabh Bishwambhar, Adv
For the Opposite Party/s	:	Mr. Sanjay Kumar Pandey, APP
For the O.P. No. 2	:	Ms. Mallika Mazumdar, Adv

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 17-06-2025

Heard learned counsel for the petitioner and

learned counsel for the respondents.

2. The present quashing petition has been preferred to quash the order dated 01.10.2022 passed in G.R. No. 2956 of 2019 by learned Sub-Divisional Judicial Magistrate, Purnea by which prayer of discharge of petitioners was rejected in connection with Purnea Mahila P.S. Case No. 32 of 2019 registered for the offences punishable under



Sections 498 A & 34 of the Indian Penal Code (in short IPC) and Section 3/4 of the Dowry Prohibition Act, where charge-sheet submitted under Sections 341, 323, 498 A & 34 of the IPC and Section 3/4 of the Dowry Prohibition Act.

3. The case of prosecution in brief is that on 24.08.2019, Swati Kumari daughter of Umesh Kumar Singh, filed a written complaint stating that she was married to Vishal Kumar (son of Binod Kumar) two years ago, and have a child together. Both husband and wife are doctors. Initially, the relation between parties was co-ordial, but later on her in-laws including her husband Vishal Kumar, mother-in-law Veena Devi, father-in-law Binod Kumar and sister-in-law Binita Kumari demanded land and Rs. 10 lakh. Upon her refusal, they allegedly began harassing her, denying her food and water, preventing her from attending her clinic and started regularly assaulting her. She also reported that her in-laws threatened to falsely implicate her father in serious criminal cases.

4. Mr. Ajay Kumar Sinha, learned senior counsel appearing on behalf of petitioners submitted that both



petitioners are in-laws facing general and omnibus allegation *qua* demand of dowry. It is submitted that even allegation of physical assault is appearing very much general and omnibus against these petitioners and they appear primarily alleged only being parents of husband of O.P. No. 2. It is pointed out by Mr. Sinha that date of occurrence also not appears specified from the face of FIR. It is submitted that Rs. 7 lakhs advanced to petitioner no. 1 by the father of O.P. No. 2 admittedly for the business purpose as loan, which was duly returned by petitioners prior to this marriage and, therefore, allegation for demand of dowry appears apparently false on its face. It is submitted that amount in issue was returned through bank transaction, leaving no doubt.

5. It is also submitted by Mr. Sinha that injury report made available through supplementary affidavit suggest only bodily pain etc., contrary to the allegations as raised by O.P. No. 2 as she was brutally beaten by petitioner's son and also by petitioners.

6. While concluding his argument, it is pointed out that from the allegation as set out through FIR, no *prima-*



facie cognizable offence appears to be made out against petitioners, where implication only appears being parents of the husband of O.P. No. 2 and, therefore, the order rejecting discharge petition under Section 239 of the Cr.P.C. by learned Trial Court is fit to be quashed and set aside as there is no ground to call petitioners for joining the criminal trial. In support of the submissions learned counsel relied upon the legal reports of Hon'ble Supreme Court as available through **State of Haryana and Others Vs. Bhajan Lal and Others, 1992 Supp (1) Supreme Court Cases 335 & Abhishek Vs. State of Madhya Pradesh, 2023 SCC OnLine SC 1083.**

7. Learned APP duly assisted by learned counsel for O.P. No. 2 submitted that FIR in issue categorically disclosing that the petitioners raised demand of dowry for cash of Rs. 10 lakhs and they were involved in physical assault, however she fairly conceded that date of occurrence is not specified in the FIR.

8. It would also be apposite to reproduce the paragraph no. 102 of the **Bhajan Lal Case (supra)** which



reads 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 informant 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 persons 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.”

9. It would also be apposite to reproduce the paragraph no(s). 12, 13, 14, 15 and 16 of **Abhishek Case (supra)** which reads as under:

“**12.** The contours of the power to quash criminal proceedings under Section 482 Cr. P.C. are well defined. In **V. Ravi Kumar v. State represented by Inspector of Police, District Crime Branch, Salem, Tamil Nadu [(2019) 14 SCC 568]**, this Court affirmed that where an accused seeks quashing of the FIR, invoking the inherent jurisdiction of the High Court, it is wholly impermissible for the High Court to enter into the factual arena to adjudge the correctness of the allegations in the complaint. In **Neeharika Infrastructure (P). Ltd.**



v. State of Maharashtra [Criminal Appeal No. 330 of 2021, decided on 13.04.2021], a 3-Judge Bench of this Court elaborately considered the scope and extent of the power under Section 482 Cr. P.C. It was observed that the power of quashing should be exercised sparingly, with circumspection and in the rarest of rare cases, such standard not being confused with the norm formulated in the context of the death penalty. It was further observed that while examining the FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made therein, but if the Court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by this Court in **R.P. Kapur v. State of Punjab (AIR 1960 SC 866)** and **State of Haryana v. Bhajan Lal [(1992) Supp (1) SCC 335]**, the Court would have jurisdiction to quash the FIR/complaint.

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.

10. In view of aforesaid factual and legal discussions and by taking note of fact as allegation raised against petitioners, who are in-laws appears very much



general and omnibus without specifying even the date of the occurrence, where injury report is also not supporting the allegation as raised by O.P. No. 2. Accordingly, by taking note of legal ratio as available through **Abhishek Case (supra)**, impugned order dated 01.10.2022 as passed by learned SDJM, Purnea in G.R. No. 2956 of 2019 in connection with Purnea Mahila P.S. Case No. 32 of 2019 as discussed aforesaid is hereby quashed and set aside.

11. Hence, this application stands allowed.

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

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.06.2025
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