

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67414 of 2018

Arising Out of PS. Case No.-545 Year-2016 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Bimal Kumar Singh @ Ran Vijay Singh S/o Chandra Bans Singh, R/o Village- Bajrewa, P.S.- Sahar, Distt.- Bhojpur.
2. Vijay Kumar Singh S/o Chandra Bans Singh, R/o Village- Bajrewa, P.S.- Sahar, Distt.- Bhojpur.
3. Soni Devi W/o Vijay Kumar Singh, R/o Village- Bajrewa, P.S.- Sahar, Distt.- Bhojpur.
4. Sindhi Devi W/o Chandra Bans Singh, R/o Village- Bajrewa, P.S.- Sahar, Distt.- Bhojpur. Petitioners

Versus

1. State of Bihar
2. Guriya Devi @ Bharti Devi W/o Bimal Kumar Singh @ Ran Vijay Singh D/o Shiv Prakash Singh, R/o Mohalla East Police Line Road, P.S.- Rampur, Distt.- Gaya. Opposite Parties

Appearance :

For the Petitioners	:	Mr. Gopal Govind Mishra, Advocate
For the Complainant	:	Mr. Praveen Kumar, Advocate
For the State	:	Mr. Sri Ram Sumiran Roy, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

9 10-10-2025 Heard learned counsel for the petitioners, learned counsel for the Opposite Party No. 2 / Complainant and learned counsel for the State.

2. The present quashing application has been filed under Section 482 CrPC seeking quashing of the order dated 19.08.2016 passed in Complainant Case No. 545 (c) of 2016 by learned Judicial Magistrate- XVI, Gaya whereby the cognizance has been taken under Sections 498A and 497 of the Indian Penal Code and under Section 4 of the Dowry Prohibition Act.

3. It has been informed by the learned counsel appearing on behalf of the petitioners that petitioner no. 4 (Sindhi Devi), i.e. the mother of petitioner no. 1 and mother-in-



law of Opposite Party No. 2 during the pendency of the present quashing application has died and the learned counsel seeks to withdraw the present quashing application in respect of petitioner no.4 as the same has become infructuous.

4. Present Quashing application in respect of petitioner no.4 is dismissed as withdrawn.

Re.: Petitioners No. 1 to 3

5. The present dispute arises as a result of strained matrimonial relationship between the husband and wife, i.e., petitioner no. 1 and Opposite Party No. 2 (complainant) in which the other family members including the mother (petitioner no. 4), brother (petitioner no. 2) and sister in law (petitioner no. 3) of the petitioner no. 1 are also made accused.

6. Learned counsel appearing on behalf of the petitioners submitted that so far as petitioner no. 2 (Vijay Kumar Singh) and petitioner no. 3 (Soni Devi) are concerned, they are own brother and sister-in-law of petitioner no. 1 and brother-in-law and sister-in-law of Opposite Party No. 2.

7. He further submitted that all the allegations levelled against the petitioners regarding the illicit relationship, demand of Rs.1 lac and mental torture are false rather the Petitioner no.1 is ready to keep the complainant with full dignity



and honour. Learned counsel further submitted that the impugned order is bad in law showing complete non application of mind of the concerned magistrate as, he has also taken cognizance under Sections 497 of the IPC, which is no more in existence.

8. Learned Counsel further submitted that there are contradictions in the statements made in the compliant petition, the statement of the complainant recorded under section 200 CrPC and the evidence produced on the behalf of the complainant. He further submitted that the magistrate conducted inquiry under section 202 in which one interested witnesses was examined and in absence of any material to disclose offense for allegation under Section 498A or any ingredients of Sections 3/4 of the Dowry Prohibition Act, the order taking cognizance is bad in law.

9. *Per contra*, learned counsel appearing on behalf of O.P. No. 2 submitted that the impugned order dated 09.08.2016 passed by the learned Judicial Magistrate XVI, Gaya in Complaint Case No.545 (C)/2016, whereby the cognizance has been taken against the petitioner under Section 498(A) of IPC and Sections 3/4 of D.P. Act is legal, proper and sustainable in the eye of law. The learned Magistrate has rightly observed



that he has no jurisdiction over trial of the case under Section 4 of Dowry Prohibition Act and therefore he transferred the case before the appropriate court having jurisdiction over trial.

10. Learned counsel further submitted that the present case has been filed only with an intention to harass the complainant (O.P.No.2) and earlier also, the petitioners had filed a case bearing Cr. Misc. No.56159 of 2017 for transferring Complaint Case No.454©/2016 from Gaya Judgeship to Arra Judgeship, which was dismissed vide order dated 18.07.2018.

11. Learned counsel contended that the petitioner no.1 never made any effort to reconcile and at the same time, he don't take care of his son and maintain O.P. No. 2 financially. Petitioner is also avoiding his appearance in Maintenance Case No.06 of 2019 filed by the complainant in spite of service of notice.

12. Heard the parties.

13. The present case relates to matrimonial dispute between the petitioner and Opposite Party No.2, who are husband and wife respectively. In complain case No. 545(C) of 2016 filed by Opposite Party No.2, allegations of cruelty, causing hurt and wrongful restraint for non-fulfillment of dowry have been alleged against the petitioner and other in-laws of the



complainant. Cognizance has been taken under Section 498(A) and 497 of the IPC. In the case of *Joseph Shine vs Union of India* reported in **2018 SCC Online SC 2** the Apex Court has struck down Section 497 of *IPC* and decriminalized adultery by declaring Section 497 of the IPC *ultravires* to the provisions of Indian Constitution.

14. I have perused the complaint filed by the Opposite Party No. 2, in which, the allegation is that the entire family members along with petitioners have assaulted her on account of non-fulfillment of demand of dowry and kept her out of the house. Faced with the situation, allegedly the Opposite Party No. 2 had no option than to file the complaint. On the perusal of the complaint petition, I find that it does not disclose any offence to have been committed by petitioner no. 2, who is the own brother of Petitioner no. 1, Petitioner no. 3 is wife of Petitioner no. 2 and Petitioner no. 4 is the mother in law that they had subjected O.P. No. 2 to cruelty of various nature. The direct allegation is against petitioner no. 1, who is the husband of Opposite Party No. 2.

15. It is commonly seen in the society that the entire family members, as well as, relatives are made accused along with the husband to face criminal prosecution. The Apex



Court has demarcated the manner in which the complaints are entertained by the learned District Court. The Apex Court in case of *Naushey Ali & Ors. Vs. State of Uttar Pradesh & Anr.* reported in **(2025) 4 SCC 78**, considering the entirety of matters, particularly dealing with the misuse of Section 498 of IPC, referring to its earlier judgment, finally concluded that offences arising out of matrimonial dispute particularly relating to dowry etc. or a family dispute where wrong is committed to the victim by the offenders and his family, can be settled amicably and also in light of the recent judgment of Apex Court in the case of *Navneesh Aggarwal & Ors. v. State of Haryana & Anr.* reported in **2025 INSC 963**, I find that no case under Section 498A of IPC is made out against petitioner nos. 2 and 3. **Accordingly, order taking cognizance dated 19.08.2016 qua the petitioner no.2 and 3 is set aside and quashed.**

16. So far as petitioner no. 1 (Bimal Kumar Singh @ Ran Vijay Singh) is concerned, who is the husband of the O.P No. 2, there is direct allegation against him of subjecting the Opposite Party No. 2 to various nature of cruelty, **I am not inclined to interfere in any manner.**

17. The matrimonial dispute is not an offense against the society rather a matrimonial dispute is a private



conflict between spouses and does not inherently constitute an offence against society. The Apex Court in the case of **B.S. Joshi v. State of Haryana**, reported in, (2003) 4 SCC 675, in paragraph nos. 12 and 13 has held as under:-

“ 12. The special features in such matrimonial matters are evident. It becomes the duty of the court to encourage genuine settlements of matrimonial disputes.

*13. The observations made by this Court, though in a slightly different context, in **G.V. Rao v. L.H.V. Prasad [(2000) 3 SCC 693 : 2000 SCC (Cri) 733]** are very apt for determining the approach required to be kept in view in a matrimonial dispute by the courts. It was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different courts.*

18. Recently also, the Apex Court in the case of **Mange Ram Vs. State of Madhya Pradesh & Another (Special Leave Petition (Criminal) No.10817 of 2024)**, in paragraph nos. 25, 31 and 32 has reiterated that in cases, particularly, related to dowry, opportunity be given to the parties first to reconcile,



which *inter alia* are as follows:-

“25. This Court, in Dara Lakshmi Narayana vs. State of Telangana, (2025) 3 SCC 735, has made it clear that family members of the husband ought not to be unnecessarily roped into criminal proceedings arising out of matrimonial discord. The Court observed that it has become a recurring tendency to implicate every member of the husband’s family, irrespective of their role or actual involvement, merely because a dispute has arisen between the spouses. It was further held that where the allegations are bereft of specific particulars, and particularly where the relatives sought to be prosecuted are residing separately or have had no connection with the matrimonial home, allowing the prosecution to proceed would amount to an abuse of the process of law. The Court noted that criminal law is not to be deployed as an instrument of harassment, and that judicial scrutiny must be exercised to guard against such misuse.

31. We also refer to Gian Singh vs. State of Punjab, (2012) 10 SCC 303 wherein this Court observed that where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled, although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored, securing the ends of justice being the ultimate guiding factor. In this regard, a specific reference was made to offences arising out of matrimony, particularly relating to dowry, etc. or a family dispute, where the wrong is basically to the victim but the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable. The High Court may, within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

32. In Naushey Ali vs. State of U.P., (2025) 4 SCC 78, one of us (Viswanathan, J.) observed in



paragraph 32 that proceeding with the trial, when the parties have amicably resolved the dispute, would be futile and the ends of justice require that the settlement be given effect to by quashing the proceedings. It would be a grave abuse of process particularly when the dispute is settled and resolved.”

19. Recently also, the Apex Court has reiterated the principle laid down in case of ***Navneesh Aggarwal (Supra)*** in ***Mange Ram (Supra)***.

20. The petitioner no. 1, who is the husband and the O.P. No. 2 (wife) may proceed to settle their strained matrimonial relationship amicably, the learned District Court shall also strive till last to settle the dispute outside the Court.

21. The Petitioner no. 1 and O.P. No. 2 are directed to appear before the learned District Court on 27.11.2025 at 10:30 AM.

22. Learned District Court is directed to take necessary steps to refer the matter before the learned Mediator of the District Mediation Center.

23. Learned Mediator of the District Mediation Center concerned shall make his/her best efforts to settle the dispute between the parties amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of four months, till then, no coercive action shall be



taken against the petitioner no. 1 in connection with the aforesaid case.

24. In case, the parties resolve their dispute amicably, then the proceeding is required to be dropped in light of the law laid down by the Apex Court as referred hereinabove.

25. In case of failure on the part of the petitioner no. 1 to appear on 27.11.2025 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the petitioner no. 1 shall automatically lose its force.

26. In case, it is deliberate on the part of the Petitioner no. 1 and he fails to reconcile, then in that case, the learned District Court shall proceed with the trial. However, if the O P No. 2 fails to cooperate into mediation or arrive at amicable settlement, the interim protection granted to petitioner no. 1 shall become final and the proceeding against him is also required to proceed in accordance with law.

27. Accordingly, the present quashing application stands disposed of.

(Purnendu Singh, J)

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