

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30704 of 2023

Arising Out of PS. Case No.-184 Year-2018 Thana- SIWAN CITY District- Siwan

1. Punam Gupta @ Punam Devi, Wife of Bikash Gupta
2. Bikash Gupta, Son of Late Pramod Shah
3. Dipak Gupta, Son of Late Pramod Shah
4. Archana Gupta @ Archana Devi, Wife of Dipak Gupta
All are resident of Village-Selengudi, Kakopather, P.S.-Kakopather, District-Tinsukia, Assam

... .. Petitioners

Versus

1. The State of Bihar
2. Swati Rani, wife of Subodh Kumar Gupta, daughter of Om Prakash Gupta,
Resident of Mohalla-Shradhanand Bazar, P.S.-Town, District-Siwan

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. Nagadeo Choubey, Advocate
For the State	:	Mr. Humayou Ahmad Khan, APP
For the O.P. No.2	:	Mr. Bhagya Narain Gupta, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 07-04-2025

Heard learned counsel for the petitioners and
learned APP appearing on behalf of the State duly assisted
by learned counsel appearing for informant.

2. The present application has been filed by the
petitioners for quashing of the order of cognizance dated
14.11.2019 as passed learned S.D.J.M., Siwan in Siwan
Town P.S. Case No.184 of 2018, whereby the learned
Jurisdictional Magistrate has taken cognizance for the



offences punishable under Sections 498-A read with 34 of the Indian Penal Code (in short 'IPC') and Sections 3 and 4 of the Dowry Prohibition Act against the petitioners and others.

3. The brief case of prosecution as per written information of the informant/opposite party no. 2 that her marriage got solemnized at Siwan on 03.12.2016 with one Subodh Kumar Gupta and after her *bidaai*, she went to her *sasural* at Village-Chhajan, Muzaffarpur but, after few days of her marriage, the mother-in-law, the father-in-law, the sisters-in-law and brothers-in-law started accusing the informant of cheating their son, who is working as Chartered Accountant (C.A.), as they loosed offered dowry of Rs. 50 Lacs from others. The informant responded aforesaid that her father mortgaged his land and organized marriage prosperously by incurring expenses more than Rs. 20 Lacs upon which, the mother-in-law, sister-in-law (*jethani*) and the husband of the informant started abusing the informant by using filthy language and also started assaulting the informant and damaged her mobile phone and its SIM card.



It is further alleged that they threatened the informant also as to sent her back to her parental home. It is alleged that the informant was restrained from talking to her father. It is further alleged that after eight days, the informant along with her husband departed for Assam, where same behavior was continued. After a week, they returned to Patna and the condition became further worsened. The husband of the informant under the effect of alcohol, tortured the informant. It is further alleged that the mother of the husband suggested her husband to divorce her and to marry another girl, who could have brought Rs. 50 Lacs in dowry. It has further been alleged by the informant that the husband was caught in an objectionable position with the maid servant by the informant herself and on being objected, the informant was grievously hurt by the husband and the matter straightway ignored by her mother-in-law. It is further alleged that the parents of the informant tried to resolve the matter but, they also faced brutality. The amount, which was in the account of the informant, was withdrawn by the husband as well and her husband continuously tortured her



under provocation of his sisters and sister-in-law (with whom he has objectionable relations). It is further alleged that once her husband left the house and did not received her phone. On his return, he was found drunken and created a scene, which was stopped only with interfere of neighbours. They also called police on 21.02.2017 and a bond-paper containing some terms for living together was executed but despite of that, the atrocities remains continued. The informant further alleged that on 20.03.2017, the husband beaten her harshly out of which, she received grievous hurt and during occurrence they snatched her jewellery and kicked her out of the house, leaving her helpless. Considering the ailments of the father-in-law and profession of the husband, the F.I.R. could not be lodged earlier. Thereafter, the father-in-law also died on 02.06.2017 and when the informant visited there, she was ill-treated and several attempts were made to thrash her. After waiting for a year, the informant lodged complaint before the Mahila P.S. Siwan, where the husband comes and executed bond that he will take the informant on 01.02.2018 but,



thereafter, he was regularly threatened her to give divorce.

4. It is submitted by learned counsel appearing for the petitioners that petitioner no. 2 and 3 are the brother-in-laws (*bhaisur*) of opposite party no. 2, whereas petitioner no. 1 and 4 are the wives of petitioner nos. 2 and 3 respectively i.e., the sister-in-laws (*gotni*) of the opposite party no.2. The petitioners are living with their families at Village-Selengudi, Kakopather, P.S.-Kakopather, District-Tinsukia, Assam and they hardly visit the house of the Subodh Kumar Gupta, the accused no.1 and the opposite party no.2. Therefore, it is not believable that they were present on the place of occurrence on the specified date and time given in the F.I.R. and on the basis of same, it can be said that the petitioners have no role to play in the entire incident and have committed no offence whatsoever. It is submitted that they have been falsely implicated in this case with *mala fide* motive. It is further submitted that there is no any remote chance of the involvement of the petitioners in the alleged occurrence as raised through present FIR.

5. Learned counsel further submitted that the



police submitted final form after investigation against petitioners, as Investigating Officer came to the conclusion that the case is true against the husband and mother-in-law of the opposite party no. 2 only.

6. It is further submitted that the learned trial court without considering the investigation report submitted by the Investigating Officer, took cognizance vide impugned order dated 14.11.2019 against all the accused persons including the petitioners, who are the *bhaisurs* and *gotnis* of the opposite party no. 2. It is further submitted that the learned court while taking cognizance against the petitioners by taking a different view did not assigned any reason and completely ignored the fact that petitioners neither visited the place of incident nor they lived with the informant/O.P. No.2 and her husband and their implications is only to harass and humiliate the petitioners, who are the relatives of the husband of the opposite party no.2.

7. In the background of aforesaid, learned counsel for the petitioners submitted that no offence under Section 498-A/34 of the IPC and Section 3 and 4 of Dowry



Prohibition Act is made out against the petitioners, in view of the averments and allegations made in the F.I.R. and the investigation of the police but, the opposite party no. 2 has implicated the petitioners in the present case on false and baseless grounds only with *mala fide* intention, with a view to harass the petitioners.

8. In support of his submission, learned counsel has relied upon the legal report of Hon'ble Supreme Court as available through **State of Haryana vs. Bhajan Lal** reported in A.I.R. 1992 SC 604. The case in hand is completely covered under the said guidelines of the Hon'ble Supreme Court and also the legal report of **Abhishek vs. State of Madhya Pradesh** reported in **2023 SCC OnLine SC 1083**, therefore, the impugned cognizance order is fit to be quashed and set aside.

9. A counter affidavit has been filed on behalf of O.P. No.2, which is available on record.

10. Learned counsel appearing on behalf of O.P. No. 2 submitted that all the above-named petitioners along with other co-accused persons have tortured and assaulted



the opposite party no.2/informant on 28.03.2018 for demand of dowry etc. It is further submitted that the petitioners have filed present petition after lapse of more than three years of passing of cognizance order dated 14.11.2019 by learned S.D.J.M. Siwan. It is further submitted that from perusal of FIR, there is specific allegation against these petitioners, who actively participated in disturbing conjugal life of O.P. No.2 and they also found involved in physical assault.

11. It would be apposite to reproduce Para-13, 14, 15, 16 and 17 of the legal report of Hon'ble Supreme Court passed in the case of **Abhishek 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 vs. Bhajan Lal [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.'

12. In view of aforesaid factual and legal discussions, as petitioners are in-laws facing general and omnibus allegation *qua* alleged cruelty as committed upon O.P. No.2 and they appears married much prior to the marriage of the informant/O.P. No.2 living separately at remote locations at Assam and the present implication *prima facie* brought against them in view of fact that they are relatives of the husband of petitioners as to harass the petitioners and, accordingly, by taking guiding note of



Abhishek case (supra) to secure the ends of justice, the impugned order of cognizance dated 14.11.2019 as passed by learned S.D.J.M., Siwan in Siwan Town P.S. Case No.184 of 2018 *qua* all above-named petitioners is hereby quashed and set aside.

13. The present application stands allowed.

14. Let a copy of this order be sent to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10-04-2025
Transmission Date	10-04-2025

