

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31822 of 2025

Arising Out of PS. Case No.-25 Year-2024 Thana- PHULWARISHARIF District- Patna

1. Sirish Kumar, male, aged about 34 years, son of S.K. Srivastava @ Shailendra Kumar Srivastava
2. S.K Srivastava @ Shailendra Kumar Srivastava, male, aged about 66 years, son of Late Sudarshan Lal
3. Nitish Kumar, male, aged about 33 years, son of S.K Srivastava @ Shailendra Kumar Srivastava
4. Mamta Srivastava, female, aged about 58 years, wife of S.K Srivastava @ Shailendra Kumar Srivastava

All resident of Flat No.101, Krishna Enclave, Road No.3, Maurya Vihar, Khagaul, P.S.-Phulwari Sharif, District- Patna (Bihar) - 801105

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ashna Manoram W/o- Sirish Kumar, D/o- Arun Kumar Shriwastava Housing Colony Bariyatu Ranchi Jharkhand

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar, Advocate

For the Opposite Party/s : Mr. Ajit Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 10-11-2025

Heard learned counsel appearing on behalf of the
petitioners and learned APP for the State.

2. The petitioners have preferred application under
Section 528 of BNSS for quashing the order taking cognizance
dated 13.12.2024 passed by the learned Additional Chief



Judaical Magistrate-IV, Patna in Phulwari Sharif P.S. Case No.25 of 2024 (G.R. No. 3548/2024) by which learned Additional Chief Judaical Magistrate-IV, Patna has taken cognizance of offence against the petitioners under Sections 498 (A), 504, 506, 341, 354/34 of the Indian Penal Code and Section 3/4 of D.P. Act.

3. The prosecution story in brief is that the informant was married to Sirish Kumar (petitioner no. 1) on 25.11.2022 according to *Hindu* rites and customs, with marriage expenses of ₹35 lakhs borne by her father. It has been alleged that she was not allowed to stay in the marital room with her husband and she later discovered that her husband is suffering from erectile dysfunction. The informant also claims that her father provided ₹45,000 per month for her Ph.D. studies. She further alleged that she faced continuous harassment from her mother-in-law, including denial of access to the kitchen during menstruation, at the same time, she was subjected to domestic violence, verbal taunts for her dark complexion. Her in laws also had put obstruction in her studies and had threatened of dire consequences. It is further alleged that after resuming marital relations in February 2023, she became pregnant but, following medical advice, underwent a DNC procedure at Ranchi



Hospital. She also alleges that the accused sent threatening messages and made false allegations tarnishing her character.

4. Learned counsel appearing on behalf of the petitioners submitted that the learned District Court before taking cognizance of the offence, has not considered that the allegation primarily arises out of dispute between husband and wife and is not against the society. He further submitted that the material available on record don't disclose any criminal element and without considering this aspect, the order taking cognizance against the petitioner cannot sustain in the eye of law. He further submitted that petitioner no. 1 is husband of Opposite party no.2, petitioner no.2 is father-in-law of Opposite party no.2, petitioner no. 3 is brother-in-law of the opposite party no. 2 and petitioner no. 4 is mother-in-law of Opposite party no.2.

5. Learned counsel further submitted that marriage is a sacred ceremony but little matrimonial skirmish suddenly erupts into hatred and the parties ponder to reconcile their dispute outside the court.

6. *Per contra*, learned counsel for the State submitted that the opposite party no.2 is being harassed by the petitioners and, as such, the present quashing application is fit to be



dismissed. He, however, submitted that a chance be given to the parties to settle their dispute amicably.

7. Heard the parties.

8. The law in respect of matrimonial dispute between husband and wife is well settled at the same time, the Apex Court has held that the family members of husband should not be roped unnecessarily and face vexatious criminal trial.

9. 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.

10. From perusal of the complaint, it is evident that there is no specific allegation against the petitioners no. 2 to 4, who are father-in-law, brother-in-law and mother-in-law and allegation against them is general and omnibus.

11. It has been held by the Apex Court that 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 by



the Hon'ble Supreme Court, which is 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.*

12. Recently also the Apex Court in the case of **Navneesh Aggarwal & Ors. v. State of Haryana & Anr.** reported in **2025 INSC 963**, has held that the family members of husband should not be roped unnecessarily and face vexatious criminal trial.

13. I find that no case under Section 498A and other allied sections of IPC and Section 3/4 of D.P. Act is made out against petitioner nos.2 to 4. Accordingly, the entire proceedings



and order taking cognizance dated 13.12.2024 passed in Phulwari Sharif P.S. Case No. 25 of 2024 (G.R. No. 3548/2024) is hereby **set aside and quashed to the extent it relates to petitioners no. 2 to 4.**

14. Recently, 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 and 31 dealing with the cases related to dowry has held that opportunity be given to the parties first to reconcile. Paragraphs no. 23 and 31 are *inter alia* reproduced hereinafter:-

“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.”

15. A reference can be taken to law laid down by 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.

16. In the present case, the petitioner no. 1, who is husband of the O.P. No. 2, has agreed to settle the dispute outside the Court and he has willingly desired to appear before the learned District Court on 27.11.2025 at 10:30 AM.

17. Learned District Court is directed to take



necessary steps to issue notices to the respective parties and upon their appearance, refer the matter before the learned Mediator of the District Mediation Center.

18. 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 in connection with the aforesaid case.

19. 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.

20. In case of failure on the part of the petitioner 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 shall automatically lose its force.

21. In case, it is deliberate on the part of the petitioner and he fails to reconcile, then in that case, the learned District Court shall proceed with the trial. In case, it is deliberate on the part of the opposite party no.2 to reconcile, then in that case, the interim protection granted to the petitioner shall continue



and the trial shall proceed in accordance with law.

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

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15.11.2025
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