

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26836 of 2016

Arising Out of PS. Case No.-650 Year-2015 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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Jakir Hussain Son of Late Jahur Mohammad, resident of Village- Barwa,
Shekh Toli, P.S.- Lauriya, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Safiya Khatoon, wife of Jakir Hussain, Daughter of Late Mainuddin,
Resident of Dhobani Parsauni, P.S.- Sathi, District- West Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey, Advocate
For the Opposite Party/s : Mr.Tarkeshwar Nath Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

6 04-09-2025 Heard learned counsel appearing on behalf of the

petitioner and the learned APP for the State.

2. The present application has been filed for quashing
of order dated 05.04.2016 passed in Complaint Case No.650C
of 2015, registered under Section 498A of IPC, by the learned
SDJM, Bettiah,

3. As per the allegation made in the complaint
petition, due to non-fulfilment of the demand of dowry, the
complainant (O.P.No.2) was assaulted and ousted from the
house.

4. Learned counsel appearing on behalf of the
petitioner submitted that the learned Sub Divisional Judicial
Magistrate, Bettiah, in the most mechanical manner, without
applying his judicial mind that the matter is purely civil in



nature and without considering the material available on record, has taken cognizance against the petitioner *vide* order dated 05.04.2016, which cannot sustain in the eye of law. Learned counsel in this regard has relied upon the judgment of the Apex Court passed in case of ***Paramjeet Batra v. State of Uttarakhand***, reported in ***(2013) 11 SCC 673***, wherein in paragraph no. 12, the court has held as under:-

12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.

5. In the case of ***Usha Chakraborty Vs. State of West Bengal***, reported in ***(2023) 15 SCC 135***, while quashing the FIR therein and further proceedings based thereon, the Apex Court observed as under: -

‘...the factual position thus would reveal that the genesis as also the purpose of criminal proceedings are nothing but the aforesaid incident and further that the dispute involved is essentially of civil nature.’

6. The Apex Court has reiterated the aforesaid preposition in recent judgment of ***S.N. Vijayalakshmi & Ors.***



Vrs. The State of Karnataka and Anr. reported in ***(2025) SCC Online SC 1575.***

7. Both the parties agreed to settle the dispute outside the Court and have willingly desired to appear before the learned District Court on 26.09.2025 at 10:30 AM.

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

9. Learned Mediator of the District Mediation Center concerned shall make his/her best efforts to settle the dispute 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 petitioners in connection with the aforesaid case.

10. In case of failure on the part of the petitioners to appear on 26.09.2025 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the petitioners shall automatically lose its force.

11. In case, the parties fail to reconcile, then in that case, the learned District Court shall proceed with the trial.

12. 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.

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

(Purnendu Singh, J)

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