

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39552 of 2024**

Arising Out of PS. Case No.-243 Year-2023 Thana- COMPLAINT CASE District- Banka

Shambhu Kumar Jha @ Shambhukumar Kapileshwar Jha S/o Late Kapileshwar Jha R/o Village-Shasan, P.S.-Hasanpur, Distt.Samastipur, At Present I-202,Shalin Heights-3, near Hathijan Circle, Ahmedabad, P.S.-Vatava GIDC, Gujrat-382445

... .. Petitioner/s

Versus

1. The State of Bihar
2. Madhumita Kumari D/o Manoj Kumar Jha R/o Tube Colony, L6-37, Baridih, P.S.-Sidgoda, Jamshedpur, District-East Singhbhum, Jharkhand

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Sunil Kumar Pandey, APP.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

5 07-10-2025 Heard learned counsel appearing on behalf of the petitioner and learned APP for the State.

2. The present application has been filed under Section 482 Cr.P.C. for quashing of the order dated 15.09.2023 passed in Complaint Case No. 243 of 2023 by the learned CJM, Banka, whereby learned Magistrate directed for issuance of processes against the petitioner to face trial for offences punishable under Section 498A of the Indian Penal Code.

3. The allegation is of subjecting the complainant – opposite party no.2 to various sorts of torture due to non-



fulfillment of the demand of the dowry.

4. Learned counsel appearing on behalf of the petitioner submitted that the learned CJM, Banka 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 directed for issuance of processes against the petitioner to face trial for offences punishable under Section 498A of the Indian Penal Code vide order dated 15.09.2023, which cannot sustain in the eye of law. 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. He further submitted that matter be referred for mediation.

5. Learned APP submitted that opportunity shall be given to the parties to reconcile their dispute amicably.

6. Heard the parties.

7. Having considered the rival submissions made on behalf of the parties, I find that the parties have failed to settle the matrimonial dispute, the Court till last minute must strive to give opportunity to the parties to settle the dispute between the husband and wife amicably. 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. However, a false case can have a disastrous consequence in absence of any criminal content. The personal dispute cannot call for a criminal offence. Continuation of the proceeding would amount to abuse of process of law leading to vexatious proceeding against the petitioner.

8. In this regard, 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.

9. The petitioner is directed to appear before the learned District Court on 21.11.2025 at 10:30 AM.

10. Learned District Court is directed to take necessary steps to refer the matter before the learned Mediator of the District Mediation Center after noticing the opposite party no.2.

11. 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 petitioner in connection with the aforesaid case.

12. In case of failure on the part of the petitioner to appear on 21.11.2025 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.

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

14. 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.



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

(Purnendu Singh, J)

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