

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42844 of 2023

Arising out of PS. Case No.-486 Year-2022 Thana- GARDANIBAG District- Patna

Dr. Md. Zamir Hassan S/o Dr. Abdullah Ansari R/o- Islamnagar Ward No. 22, Bhabua, P.S.- Ramgarh, Dist. Kaimur-821101, Bihar at present resident of Mohalla-Dozana Apartment, Near Phulwari Station, Haroon Colony Sector-II, Saket Bihar, PS. Phulwarisharif Town and Dist. Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rabiya Ansari, D/o Ainuddin Ansari, R/o Village- Daharak, P.S. Ramgarh, Dist. Kaimur, Bihar at present resident of Mohalla- Raghunath Tola, Sai Niwas Complex, Anisabad, PS. Gardanibagh, Patna-80002

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Dr. Anand Kumar, Advocate

For the Opposite Party/s: Mr. Pradeep Narain Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL JUDGMENT

Date : 23-07-2025

Heard Dr. Anand Kumar, learned counsel for the petitioner and Mr. Pradeep Narain Kumar, learned Additional Public Prosecutor for the State.

2. Petitioner seeks quashing of the FIR of Gardanibagh P.S. Case No. 486 of 2022 dated 23.08.2022 registered for the offences under Sections 341, 323, 313, 379, 376, 493 and 504 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act.

3. Notices were issued to Opposite Party No. 2 on 02.12.2024 by both modes and despite valid service of notice to opposite party no. 2 by registered cover with A/D and the same be-



ing received personally, she has neither appeared before this Court personally nor through her counsel.

4. The prosecution case is to the effect that the informant, Rabiya Ansari was working as Jail Constable and claiming herself to be divorcee and having a female child was given a proposal for second marriage by the Petitioner, who was a Doctor. It is further alleged that the petitioner, who was the proposed groom had established physical relationship with her and on account of which she became pregnant thrice and she was forced to be aborted with medicines. It is alleged that the petitioner has threatened her to make the photographs of their physical relation viral on social media. It is also alleged that all named accused persons demanded Rs. 10,00,000/- (Ten Lakhs) and one Katha land of her maika and on non-fulfilment of the same they threatened that she along with her daughter will be killed and they tore her clothes and made her naked and also on the birth certificate of her daughter petitioner has given his name as father.

5. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in a concocted case. Learned counsel for the petitioner further submits that the petitioner is a Doctor and the informant was under his treatment and without taking divorce under Sariya/Mohamedan Law she was try-



ing to marry him. Learned counsel for the petitioner has also submitted that there was apprehension that he will be implicated in the false case, therefore, he has filed an Informatory Petition No. 172 of 2023 on 17.01.2023 before the Chief Judicial Magistrate, Patna as well as the Police has submitted Final Report/Charge Sheet No. 577 dated 15.12.2022 in the present case. Learned counsel for the petitioner next submits that the present FIR has been filed with an ulterior motive by the Opposite Party No. 2 only to grab his property threatening the petitioner to implicate in a false and fabricated case.

6. Learned counsel for the petitioner further submits that the alleged Nikahnama has been executed in connivance with the local police and Kazi which is evident from the Nikahnama and the photographs of the Police Hajat from which it could easily be ascertained that the petitioner was in custody at the relevant time and the Kazi was brought at the Thana where the alleged Nikahnama was prepared and the petitioner was forcefully made to sign on the same.

7. Learned counsel for the petitioner has then pointed out that the Opposite Party No. 2 had never taken divorce/Talak from her first husband namely Kaushar Ansari and from the evidence which he managed to collect it was found that the first hus-



band had filed a matrimonial case before the learned Principal Judge, Family Court, Kaimur being Matrimonial Case No. 57 of 2016 under Mohammedan Law for restitution of conjugal right but the said petition was disposed of on 19.04.2017 for non-appearance. Learned counsel further draws attention of this Court towards the certified copy of the order dated 29.06.2022 wherein the first husband of the Opposite Party No. 2 had filed a Matrimonial Divorce Case No. 100 of 2019 before the Court of Principal Judge, Family Court, Kaimur at Bhabhua for dissolution of their marriage and the said petition also stood dismissed without passing the order of dissolution of marriage, thus, certifying the fact that Opposite Party No. 2 has not been divorced from her first husband namely Kaushar Ansari till date. At this juncture, learned counsel for the petitioner submits that second marriage with the petitioner even if be accepted cannot be legitimate marriage under Mohammedan Law.

8. Learned counsel for the petitioner has also stated that the allegation of the child of Opposite Party No. 2 being born from the relationship with the petitioner is also falsified from the fact that the first husband namely Kaushar Ansari had furnished affidavit dated 12.10.2020 stating therein that Alia Khatoon is his daughter who was born on 11.09.2014.



9. Learned counsel for the petitioner has pointed out towards the statement of the victim given under Section 164 Cr.P.C. which has been brought on record by way of Annexure-9 wherein she has stated that she had taken divorce from her first husband namely Kaushar Ansari and she had admitted in her statement that she was pressurizing the petitioner to marry her.

10. Learned counsel for the petitioner in sum and substance has submitted that the petitioner has become a victim of honey trap and the relationship was completely consensual and the present FIR is nothing but an abuse of the process of law. It is not only the criminal proceeding going against the petitioner but it has also tarnished the image of the petitioner.

11. Considering the aforesaid submission made by learned counsel for the petitioner and taking into account the fact that the Police has submitted Final Report against the other named accused persons except the Petitioner raises the question over the genuineness of the Prosecution, I am of the view that the continuation of criminal proceeding in such circumstances would amount to an abuse of the process of law and would result in miscarriage of justice in the light of Hon'ble Supreme Court's decision in the case of **State of Haryana and Ors. Vs. Bhajan Lal and Ors**



[(1992) Supp (1) SCC 335], wherein the Hon'ble Supreme Court in paragraph 17 has held as under:-

"17. 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 ev-



idence 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 the aforesaid submission and taking note of the aforesaid legal proposition of Hon'ble Supreme Court and finding that the allegation against the petitioner is frivolous in nature and it is a malicious prosecution against the petitioner, therefore, the continuation of criminal proceeding in such circum-



stances would amount to an abuse of the process of law and would result in a miscarriage of justice.

13. Accordingly, FIR of Gardanibagh P.S. Case No. 486 of 2022 dated 23.08.2022 registered for the offences under Sections 341, 323, 313, 379, 376, 493 and 504 of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act qua the above named petitioner is hereby quashed.

14. In the result, the present quashing application stands allowed.

(Sourendra Pandey, J)

Vikash/-

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

