

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41735 of 2024

Arising Out of PS. Case No.-6235 Year-2023 Thana- PATNA COMPLAINT CASE District-
Patna

-
1. Smt. Sushila Devi Wife Of Braj Kishore Singh @ Braj Kishore Kumar R/o Village-Chainpura, Begumpur Bahri, Ps- New Bypass, Dist- Patna.
 2. Braj Kishore Singh @ Braj Kishore Kumar Son Of Gauri Shankar Singh R/o Village-Chainpura, Begumpur Bahri, Ps- New Bypass, Dist- Patna.
 3. Jyoti Kumari Wife Of Ravin Kumar @ Robin Kumar R/o Village- Jamalpur Workshop, WR.S. 1, P.S- East Colony P.S.- Dist- Munger.
 4. Ravin Kumar @ Robin Kumar Son Of Late Jagdish Yadav R/o Village- Jamalpur Workshop, W.R.S.1, P.S.- East Colony P.S.- Dist- Munger.
 5. Sanjay Kumar Son Of Late Rajendra Prasad R/o Village- Kumhrar Gumti, Ps- Agamkuan, Dist- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Shruti Sinha Daughter Of Sri Vidya Bhushan W/o Abhishek Kumar, R/o Village- Chainpura, Begumpur Bahri Ps- New Bypass, At P/A- South Mandiri, Kathpul, Ps- Budha Colony Dist- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nawnit Kumar Tiwary, Advocate
For the Opposite Party/s : Mr.Syed Mojibur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 18-04-2025

Heard learned counsel appearing on behalf of the
parties.

2. The present petition preferred under Section 482 of the Cr.P.C. by above named petitioners for quashing/set aside the cognizance order dated 28.11.2023 as passed by learned Judicial Magistrate, First Class, Patna in connection with Complaint Case No. 6235 (C)/ 2023, whereby and where under the learned



Judicial Magistrate, First Class, Patna took cognizance against petitioners for the offence U/S 323, 504/34 of the Indian Penal Code.

3. The jointness on affidavit as opposite party no. 2 is residing with his brother, who received notice in terms of order dated 17.03.2025 now filed and, therefore, the notice as issued upon opposite party no. 2, deemed validly served upon her.

4. Despite of aforesaid, opposite party no. 2 failed to join the present proceedings.

5. On the basis of narration of complaint petition and after examination of complainant on S.A. and also enquiry witnesses, learned judicial Magistrate took cognizance for the offence under Sections 323, 504/34 of the Indian Penal Code against petitioners whereas the complaint was lodged with with allegation punishable under Sections 323, 324, 498A, 504 of the Indian Penal Code and $\frac{3}{4}$ of the D.P. Act.

6. As per narration of complaint petition, it appears that the marriage of opposite party no. 2 namely, Shruti Sinha, solemnized on 26.04.2021 as per Hindu rights and customs with Abhishek Kumar, son of petitioner nos. 1 and 2. During marriage, the parents of opposite party No. 2 gave several gifts as per their capacity for about Rs. 10,00,000/- including marriage expenses.



After marriage opposite party no. 2 joined her matrimonial home, where for next 2-3 days, the everything was normal but suddenly thereafter her husband and in-laws raised a demand of Rs. 20 lacs for starting business. Threat was also advanced to kill if aforesaid demand not fulfilled. Finally, opposite party no. 2 was assaulted by accused persons including petitioners and was ousted from her matrimonial home, whereafter she is residing in her parental home since 25.04.2023.

7. It is submitted by learned counsel appearing for the petitioners that all petitioners are in-laws facing general and omnibus allegation qua alleged cruelty, only being parents and relatives, whereas the thrust of allegation is available against husband of the opposite party no. 2, namely Abhishek Kumar, who is not the petitioner for the present. It is submitted that the date of alleged occurrence not appears specified and mere a general allegation regarding raising a demand for Rs. 20 lacs was made. It is submitted that even for a moment if demand be accepted as true, same appears to be raised for starting business, not as a dowry. It is pointed out that even learned Jurisdictional Magistrate while taking cognizance found allegation of cruelty and demand of dowry false on its face against petitioners. In support of his submission, learned counsel relied upon the legal report of



Abhisek Vs. State of Madhya Pradesh, reported in **2023**

SCC OnLine SC 1083.

8. It would be apposite to reproduce para-13, 14, 15, 16 & 17 of the legal report of Hon'ble Supreme Court passed in the case of ***Abhishek vs. State of Madhya Pradesh*** reported in ***2023 SCC Online SC 1083***, 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 and Ors. Vs. Bhajan Lal and Ors [(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.”

9. In view of aforesaid factual and legal submission as implication of petitioners prima facie appears being parents and relatives of the husband, where the cognizance for the offence under Section 498A was taken against the husband of the opposite party no. 2, namely, Abhishek Kumar and not against these petitioners, accordingly, by taking a guiding notes of **Abhishek's case (supra)**, impugned order of cognizance dated 28.11.2023 passed by learned Judicial Magistrate, First Class, Patna, in connection with Complaint Case No. 6235 (C)/ 2023 is hereby set



aside and quashed *qua* petitioners with all its consequential proceedings as to secure ends of justice.

10. Let copy of this order be sent to the trial court, without delay.

(Chandra Shekhar Jha, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.04.2025
Transmission Date	18.04.2025

