

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42946 of 2023

Arising Out of PS. Case No.-541 Year-2022 Thana- UDWANTNAGAR District- Bhojpur

1. Vibha Kumari @ Vibha Shukla, Wife of Deepak Kumar Shukla, Resident of Village- Shuklapura, P.O.- Bagen Ekasi, P.S.- Bagen Gola, District- Buxar and Old Address-Daughter of Sri Akhileshwar Dubey, Resident of Village- Karnamepur, P.S.- Sahpur, District- Bhojpur
2. Shivani Kumari @ Shivani Shukla, Wife of Bishnu Dutta Shukla, Resident of Village- Shuklapura, P.O.- Bagen, P.S.- Bagen Gola, District- Buxar Pin Code No. 809134 and Old Address- Daughter of Sri Akhileshwar Dubey, Resident of Village- Karnamepur, P.S.- Sahpur, District- Bhojpur

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Patna.
2. The Director General of Police, State Government of Bihar, Patna.
3. The Superintendent of Police, District- Bhojpur.
4. The Station House Officer (Officer-in-charge) of Police Station Udwanthnagar, District- Bhojpur.
5. Vinay Kumar Upadhyay, Son of Late Rameshwar Upadhyay, Resident of Village-Dakhin Akauna Ramanuj Nagar, Near Kendriya Vidyalaya, Zero Mile, P.S.- Udwanthnagar, District- Bhojpur
6. The Sub-Inspector of Police namely Sweta Kiran, (I.O.), Investigating Officer, Police Station, District-Bhojpur.

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. Nil Kamal, Advocate
For the State	:	Mr. Ajay Mishra, APP
for the O.P. No.5	:	Mr. Amrendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 28-04-2025

Heard learned counsel for the petitioners and
learned APP for the State duly assisted by learned counsel
appearing on behalf of O.P. No.5/informant.



2. The present application has been filed by the petitioner for quashing the First Information Report (in short 'F.I.R.') of Udwanthnagar P.S. Case No.541 of 2022 registered under Sections 498-A, 363, 365 of the Indian Penal Code (in short 'I.P.C.') as well as Sections 3 and 4 of the Dowry Prohibition Act.

3. The case of prosecution is based on the written complaint of complainant/O.P. No.5, namely, Vinay Kumar Upadhyay stating therein that he married his daughter, namely, Puja Kumari with one Prashant Dubey, son of Akhileshwar Dubey on 22.04.2016 under Hindu Rites and Customs. It was alleged that Prashant Dubey, the husband of his daughter, Dewar (brother-in-law), Ashutosh Dubey, mother-in-law, Usha Devi, father-in-law, Akhileshwar Dubey, sister-in-law, Vibha Shukla and Shivani Shukla tortured to his daughter just after one week of marriage at her matrimonial home. It was further stated that several times efforts were made to settle the issue, but same went in vein. It is further alleged that again and again demand as raised for cash, ornaments, four-wheeler vehicle were made by the accused



persons, to which, complainant shown his inability. On 12.11.2022 on the pretext of mutual settlement, the husband of his daughter, namely Prashant Dubey came at his house and after half an hour at about 3.00 P.M., his son-in-law along with his daughter Puja Kumari and grand-daughter-in-law Pragati Kumari went to market. After lapse of about half an hour, his son-in-law told him that your daughter is missing. The informant has suspected the hand of his son-in-law in missing of his daughter.

4. It is submitted by learned counsel appearing for the petitioners that petitioners are sisters-in-law (*gotnis*) of the daughter of opposite party no. 5/informant. It is submitted by learned counsel appearing for the petitioners that the allegations levelled in the FIR against the petitioners are frivolous and vexatious with ulterior and oblique motive in order to harass the petitioners. It is submitted that both the petitioners are married *nanads* (sisters-in-laws) of the daughter of the informant. It is further submitted that the husband of the daughter of the informant, namely, Prashant Dubey had earlier filed an inforamatory petition bearing



No.367 of 2022 dated 10.10.2022 before the court of learned Chief Judicial Magistrate, Aurangabad against his wife Puja Kumari, the informant of this case, namely, Vinay Kumar Upadhyay and Kishun Kumar and in retaliation to same, the petitioners have been falsely implicated with present case. It is further submitted that the alleged occurrence is said to have taken place on 12.11.2022 but the FIR was instituted on 15.11.2022, which was sent to the learned court on 17.11.2022. It is further submitted that there is specific allegation levelled against the husband of the daughter of the informant/O.P. No.5 regarding kidnapping of his own wife and child. It is further submitted that the allegation *qua* alleged cruelty and torture for demand of dowry as raised for cash, ornament and four-wheeler is general and omnibus against petitioners. It is submitted that petitioner no.1 is living with her husband at Hyderabad (Andhra Pradesh), where her husband is in service, whereas petitioner no.2 is also living with her husband in her matrimonial home. They have no concern with daily and domestic affairs of the daughter of the informant/O.P. No.5 The petitioners have been implicated



with present case merely being the relatives of the husband of the daughter of the informant. It is further submitted that there is no any remote chance of the involvement of the petitioners in the F.I.R. under challenge.

5. In the background of aforesaid, learned counsel for the petitioners submitted that no offences under Sections 498-A/34,363, 365 of the IPC as well as Sections 3 and 4 of Dowry Prohibition Act is made out against the petitioners and the ingredients to make out an offence under the aforesaid sections are totally lacking especially, in view of the averments and allegations raised through F.I.R.

6. In support of his submission, learned counsel has relied upon the legal report of Hon'ble Supreme Court as available through **Abhishek vs. State of Madhya Pradesh** reported in **2023 SCC OnLine SC 1083**.

7. Mr. Amrendra Kumar, learned counsel appearing for O.P. No. 5 has filed a counter affidavit, which is available on record.

8. It is submitted by learned counsel appearing for O.P. No.2 that all above-named petitioners along with other



co-accused persons have tortured and assaulted the daughter of opposite party no.5/informant on several occasions for demand of dowry etc. It is further submitted that from perusal of FIR, it appears that there is specific allegation against these petitioners, who wanted to destroy conjugal life of daughter O.P. No.5 and also assaulted her physically.

9. It would be apposite to reproduce Para-13, 14, 15, 16 and 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 vs. Bhajan Lal [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’.”

10. From perusal of FIR, it transpires that the informant has made very general and omnibus allegation *qua* alleged cruelty and demand of dowry against both above-named petitioners. The petitioners are married sisters-in-law (Nanads) and living at Hyderabad and they have no concern with daily and domestic affairs of the daughter of the informant and her husband. It further appears that since the husband of the daughter of informant, namely, Prashant Dubey filed an informatory petition bearing No.367 of 2022 dated 10.10.2022 before the court of learned Chief Judicial Magistrate, Aurangabad against his wife Puja Kumari, the informant of this case, namely, Vinay Kumar Upadhyay and one Kishun Kumar, in retaliation of same, the petitioners have



been falsely implicated with present case. Petitioner were not involved in alleged kidnapping and their implication appears only being sisters of husband of the daughter of O.P. No.5.

11. In view of aforesaid factual submissions and by taking a guiding legal note of **Abhishek case** (supra), the FIR of Udwantngar P.S. Case No.541 of 2022 along with all its consequential proceedings emanating therefrom *qua* both above-named petitioners is hereby quashed and set aside.

12. The application stands allowed.

13. Let a copy of this order be communicated to the learned trial court and the Superintendent of Police, Bhojpur at Ara, henceforth.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02-05-2025
Transmission Date	02-05-2025

