

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.44983 of 2024**

Arising Out of PS. Case No.-1051 Year-2023 Thana- BHAGALPUR COMPLAINT CASE  
District- Bhagalpur

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1. Rajendra Kumar @ Rajendra Singh, Son of Late Bajrangi Singh,
  2. Rekha Devi, Wife of Rajendra Kumar @ Rajendra Singh,  
Both are resident of village -Bangla Kothi, P.S.- Barari, District - Bhagalpur.
- ... .. Petitioners

Versus

1. The State of Bihar
  2. Priyanka Priya, Wife of Gyaneshwar Kumar, Daughter of Satyadeo Singh,  
Resident of village - Birnouth, P.S.- Goradih, District - Bhagalpur.
- .. ... Opposite Parties

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**Appearance :**

|                      |   |                                                                                                 |
|----------------------|---|-------------------------------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Ranjan Kumar Jha, Advocate<br>Mr. Rana Pratap Singh, Advocated<br>Mr. Vikas Kumar, Advocate |
| For the State        | : | Ms. Pushpa Sinha, APP                                                                           |
| For the O.P. No.2    | : | Mr. Rahul Kumar Singh, Advocate                                                                 |

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL JUDGMENT**

**Date : 04-07-2025**

Heard Mr. Ranjan Kumar Jha, learned counsel  
appearing for the petitioners and Mr. Rahul Kumar Singh,  
learned counsel appearing for O.P. No.2.

2. The present application has been filed by the  
petitioners for quashing of the order dated 12.12.2023 as  
passed by the learned Sub-Divisional Judicial Magistrate,  
Bhagalpur in Complaint Case No.1051 of 2023, whereby the  
learned jurisdictional Magistrate has taken cognizance for the  
offences punishable under Sections 323, 498-A read with 34



of the Indian Penal Code (in short 'IPC') against the petitioners.

3. The case of prosecution is based upon the written complaint of one Priyanka Devi/O.P. No.2/complainant alleging therein that she got married on 28.11.2022 with one Gyaneshwar Kumar as per Hindu rituals with the consent of both family members. The husband of the complainant was working as Loco-pilot in Railway and father-in-law (petitioner no.1) is a Sub-Inspector in police department, whereas the complainant is B.A. and is a house wife. It is further stated that soon after the marriage, a demand of four wheeler vehicle, diamond ring and cash of Rs.5 lakh was made from the complainant but, due to non-fulfilment of demand, on 14.04.2023, her mother-in-law (petitioner no.2) and *nanad* (sister-in-law) Preety have badly beaten her and on the order of petitioner no.1, namely, Rajendra Singh, the husband of complainant also beaten her. Thereafter, the complainant informed about the occurrence to her parents and again on 16.05.2023, her husband, mother-in-law and nanad have assaulted her and asked her to call her



father and further threatened for dire consequences, if their demand of dowry would not be fulfilled.

4. On the basis of aforesaid written complaint, a complaint case bearing Case No.1051 of 2023 dated 23.05.2023 was filed under Sections 498-A, 307, 323, 120-B, 406 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act against the petitioners and others and, thereafter, an inquiry was conducted under Section 202 of the Code of Criminal Procedure (in short 'CrPC'), whereafter, learned Magistrate took cognizance for the offences under Sections 323, 498-A read with 34 of the IPC was taken and process have been issued against accused persons including petitioners.

5. It is submitted by learned counsel appearing for petitioners that both petitioners are in-laws and facing general and omnibus allegation *qua* alleged cruelty and demand of dowry. It is pointed out that the husband of O.P. No.2 was working with Indian Railway and soon after the marriage, he was diagnosed for Chronic Kidney Disease (CKD), after which, the O.P. No.2 left her matrimonial home on her own. It



is submitted that petitioner no.1, who is father-in-law is working with Bihar Police as Sub-Inspector and he usually remains at place of his posting. It is submitted that the thrust of allegation is available against husband of O.P. No.2, who is facing trial. It is pointed out that during the period of hospitalization and treatment of her husband, O.P. No.2 never visited her matrimonial home or hospital on several request and she flatly refused to live with her husband.

6. It is submitted that in the aforesaid background, the implication of petitioners appear out of ulterior and oblique motive with malicious approach only for the reason that the petitioners are parents of husband of O.P. No.2, namely, Gyaneshwar Kumar. It is pointed out that due to said kidney disease, the husband of O.P. No.2 lost his job in the year 2023. In support of his submissions, 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. On the other hand, learned counsel appearing for O.P. No.2 while opposing the present quashing petition



submitted that petitioners being in-laws actively participated in the occurrence. However, he could not disputed the fact as submitted above i.e. regarding non-cooperation of O.P. No.2 to her husband during hospitalization and treatment.

8. It would be apposite to reproduce para-13, 14, 15, 16 and 17 the legal report of Hon'ble Supreme Court as available through **Abhishek case** (supra), 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 v. 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.”

9. Taking note of aforesaid factual and legal submissions and upon perusal of record, it appears that the petitioners are in-laws, facing general and omnibus allegation *qua* alleged cruelty and dowry demand, where implication of petitioners *prima facie* appear for the reason that they are parents of husband of O.P. No.2 and moreover the thrust of allegation is available against husband of O.P. No.2, who is facing the trial. It also appears that the dispute appears surfaced between the parties out of financial hardship when husband of O.P. No.2 lost his job of loco pilot in Indian Railway due to kidney disease. Admittedly, O.P. No.2 was not examined medically after brutal assault as alleged for which



she supplied reason upon court question that at same time, she was pregnant, what she failed to state in complaint.

10. In view of aforesaid, the impugned order dated 12.12.2023 as passed by the learned Sub-Divisional Judicial Magistrate, Bhagalpur in Complaint Case No.1051 of 2023 *qua* above-named petitioners is hereby quashed/set aside taking note of **Abhishek case** (supra).

11. The quashing application stands allowed.

12. Office is directed to communicate a copy of the judgment to the trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

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| AFR/NAFR          | NAFR       |
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