

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45169 of 2024

Arising Out of PS. Case No.-5992 Year-2022 Thana- PATNA COMPLAINT CASE District- Patna

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1. ANUSHREE SRIVASTAVA W/O- ROHIT PRAKASH, D/O- RAJESH CHANDRA SRIVASTAVA R/O- HOUSE NO. 10/130, CHIRANJIV VIHAR, P.S.- KAVI NAGAR, DISTT.- GHAZIABAD, STATE- UTTARPRADESH
 2. RAJESH CHANDRA SRIVASTAVA SON OF MATA PRASAD SRIVASTAVA R/O- HOUSE NO. 10/130, CHIRANJIV VIHAR, P.S.- KAVI NAGAR, DISTT.- GHAZIABAD, STATE- UTTARPRADESH

... .. Petitioner/s

Versus

1. The State of Bihar
2. SUSHMA SINHA W/O- DR. OM PRAKASH R/O- E-79, RAJESH KUMAR PATH, S.K. PURI, P.S.- SHRIKRISHNA PURI, DISTT.- PATNA, 800001

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 50723 of 2024

Arising Out of PS. Case No.-5584 Year-2022 Thana- PATNA COMPLAINT CASE District- Patna

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1. Anushree Srivastava W/o- Rohit Prakash R/o- H. No-10/30, Chiranjiv Vihar Ps- Kavi Nagar Dist- Ghaziabad, U.P
 2. Rajesh Chandra Srivastava son of Mata Prasad Srivastava R/o- H. No-10/30, Chiranjiv Vihar Ps- Kavi Nagar Dist- Ghaziabad, U.P

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dr. Om Prakash son of Late Tarni Prasad R/o- E/79, Rajesh Kumar Path, S.K Puri Ps- Shrikrishna Puri Dist- Patna

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 50896 of 2024

Arising Out of PS. Case No.-8080 Year-2022 Thana- PATNA COMPLAINT CASE District- Patna

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1. ANUSHREE SRIVASTAVA W/O ROHIT PRAKASH, D/O RAJESH CHANDRA SRIVASTAVA R/O HOUSE NO. 10/130, CHIRANJIV VIHAR,



- P.S- KAVI NAGAR, DISTT.- GHAZIABAD, STATE- UTTAR PRADESH.
2. RAJESH CHANDRA SRIVASTAVA S/O MATA PRASAD SRIVASTAVA
R/O HOUSE NO. 10/130, CHIRANJIV VIHAR, P.S- KAVI NAGAR,
DISTT.- GHAZIABAD, STATE- UTTAR PRADESH.
3. ARCHANA SRIVASTAVA W/O RAJESH CHANDRA SRIVASTAVA R/O
HOUSE NO. 10/130, CHIRANJIV VIHAR, P.S- KAVI NAGAR, DISTT.-
GHAZIABAD, STATE- UTTAR PRADESH.
4. AAYUSH SRIVASTAVA @ AYUSH SRIVASTAVA S/O RAJESH
CHANDRA SRIVASTAVA R/O HOUSE NO. 10/130, CHIRANJIV VIHAR,
P.S- KAVI NAGAR, DISTT.- GHAZIABAD, STATE- UTTAR PRADESH.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. ROHIT PRAKASH S/O DR. OM PRAKASH R/O E/79, RAJESH KUMAR
PATH, S.K. PURI, P.S- SHRIKRISHNA PURI, DIST.- PATNA-800001.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 45169 of 2024)

For the Petitioner/s : Mr. Anshul, Sr. Advocate
Ms. Tooba Hera, Advocate
Mr. Pratyush, Advocate
For the State : Mr. Pranav Kumar, APP
For the Opposite Party : Mr. Bindhaychal Singh, Sr. Advocate
Mr. Sanjeev Saran, Advocate

(In CRIMINAL MISCELLANEOUS No. 50723 of 2024)

For the Petitioner/s : Mr. Anshul, Sr. Advocate
Ms. Tooba Hera, Advocate
Mr. Pratyush, Advocate
For the State : Mr. Jitendra Kr. Singh, APP
For the Opposite Party : Mr. Bindhaychal Singh, Sr. Advocate
Mr. Sanjeev Saran, Advocate

(In CRIMINAL MISCELLANEOUS No. 50896 of 2024)

For the Petitioner/s : Mr. Anshul, Sr. Advocate
Ms. Tooba Hera, Advocate
Mr. Pratyush, Advocate
For the State : Mr. Umanath Mishra, APP
For the Opposite Party : Mr. Bindhaychal Singh, Sr. Advocate
Mr. Sanjeev Saran, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
CAV JUDGMENT

Date : 19-12-2025

Heard Mr. Anshul, learned Senior Counsel for the
petitioners duly assisted by Ms. Tooba Hera and Mr. Pratyush



and learned Senior counsel for the opposite party, Mr. Bindhaychal Singh duly assisted by Mr. Sanjeev Saran in all the three cases as also learned APPs, Mr. Pranav Kumar, Mr. Jitendra Kr. Singh and Mr. Umanath Mishra for the State.

(A) FACTS OF THE CASES:

(i) Cr. Misc. No. 45169 of 2024

2. The present petition has been preferred:

*“for the quashing of the order dated 15.09.2022 passed by the **Learned Judicial Magistrate, First Class, Patna** in connection with **Complaint Case No. 5992(C) of 2022**, in which cognizance has been taken against the petitioners herein under sections 354(C), 504 and 506/34 of the I.P.C.”*

3. The opposite party no. 2 namely, **Sushma Sinha** filed complaint case before the learned Chief Judicial Magistrate, Patna, vide **Complaint Case No. 5992(C) of 2022** on **23.05.2022** alleging that:

*(i) the complainant's son, namely **Rohit Prakash** got married to **Anushree Srivastava** (petitioner no. 1) on **06.12.2020***



as per Hindu rituals and customs. Her parents expressed their unwillingness to spend money on their daughter's marriage, they being financially not strong. The complainant and her family members inturn assured them that they were against dowry and would proceed with the marriage with the limited expense;

(ii) also, the complainant and her family members gifted expensive items as well as gold & silver jewelleries to the lady and her family. A day after the after the marriage, the petitioner no. 1 and complainant's son came back to Patna, where the complainant's home is situated. The allegation is that within two days, the petitioner no. 1's behaviour became rude and she refused to perform the marriage rituals;

(iii) further allegation is that during the four days stay at her home in Patna, the petitioner no. 1 always made



unpleasant comment on her as also her husband. Later, on 11th/12th December, 2020, the petitioner no. 1 with the complainant's son went to Pune, where the complainant's son was working. There she started pressurising the complainant's son to leave his parents and to sell the house situated in Patna so that they could buy a big flat in Pune as the petitioner no. 1 wanted to keep her parents with them;

*(iv) she also disclosed that her father, **Rajesh Chandra Srivastava** (petitioner no. 2) forcibly married her to him despite the fact that she is a mental patient. Later, the petitioner no. 1 actually suffered a mental attack in Pune. The complainant's son on 07.01.2021 took her to a Doctor. Thereafter, for detailed medical examination, the complainant's son sent the petitioner no. 1 to Patna on 12.01.2021 as the complainant's husband is a Doctor;*

(v) the complainant further



alleged that when she informed the petitioner no. 1's mother on phone about the ill-health of her daughter, both the lady as and the petitioner no. 2 also started abusing the complainant and her husband and made vile and unpleasant remarks. During her stay at Patna, the petitioner no. 1 also displayed wild and abusive behavior/act towards the complainant;

(vi) further allegation is that in the month of February, 2021, when the petitioner no. 1's parents visited the complainant's home, they started instigating the petitioner no. 1. Also, the petitioner no. 2 started abusing the complainant's husband and called him a quack and questioned his medical degree in front of his patients and people in locality. The petitioner no. 1 and her mother wanted to kill the complainant as they tried to change her blood pressure medicines with some other medicines. The allegation is that the petitioner no. 2 also



secretly recorded the complainant while she was taking bath;

(vii) the complainant further alleged that she called her son from Pune as the petitioner no. 1 was pregnant which followed all medical tests. In the month of May, 2021, the petitioner no. 2 came to Patna and started abusing the complainant and her family members and on 29.05.2021, he forcibly took the petitioner no. 1 with him to Ghaziabad;

(viii) after, 3-4 days, when the complainant opened her almirah; she came to know that all her jewelleries and costly sarees were missing. She then realised that the petitioner no. 1 had committed theft with the help of petitioner no. 2. When the complainant contacted the petitioner no. 1, she told her to keep her mouth shut or else her father would make the complainant's bathing video viral;

(ix) further allegation is that in the



month of May, 2022, the petitioner no. 1 sent her two cousins to the complainant's home who abused the complainant and her family members and forcibly tried to take complainant's signature on a blank paper. They also threatened the complainant of dire consequences;

*(x) the complainant feeling herself threatened went to the Police to lodge the FIR, but was told to approach the Court stating it to be a family dispute. This followed the **Complaint Case No. 5992(C) of 2022.***

4. After the SA of the complainant and the deposition of two witnesses, the **learned Judicial Magistrate, First Class, Patna** vide an **order dated 15.09.2022** was pleased to take **cognizance** against the petitioners under **sections 354(C), 504, 506/34 of the I.P.C.**

(ii) Cr. Misc. No. 50723 of 2024

5. The second application is:

*for the quashing of the order dated 06.07.2022 passed by the **learned Additional Chief Judicial***



***Magistrate- VIII, Patna in connection with
Complaint Case No. 5584 (C) of 2022, in which
cognizance has been taken against the
petitioners herein under sections 500/34 of the
I.P.C.***

6. The O.P. No. 2 namely, **Dr. Om Prakash** filed a complaint before the Chief Judicial Magistrate, Patna, bearing **Complaint Case No. 5584 (C) of 2022 on 06.05.2022**, alleging interalia that:

(i) the complainant is a reputed person and a Medical Doctor, having MBBS & MD degree from the reputed University. Further, he enjoys good reputation due to his profession as well as honest behaviour. The complainant's son namely, Rohit Prakash got married to petitioner no. 1 on 06.12.2020 as per Hindu rituals and customs. It has been alleged by the complainant/O.P. No. 2 that after the marriage, the petitioner no. 1 started displaying dominant behavior and would quarrel with the complainant, his wife, and



his son. Also, the petitioner no. 1, on being instigated by petitioner no. 2, would try to pressurize the complainant/O.P. No. 2 and his son to get their house registered through a sale deed in her favour, or else she would defame them and file false and frivolous cases against them;

(ii) the further allegation is that the petitioner no. 1 questioned the medical degree and made adverse remarks about the complainant's professional work in front his patients as also the family members. Also, in the month of March 2022, the petitioner no. 1 called the relatives of the complainant/O.P. No. 2 on their mobile phones and used disgraceful and foul words against him. Further, when the petitioner no. 2 came to the house of the complainant/O.P. No. 2 to take his daughter with him, then he also used derogatory words before the complainant's family members and patients;

(iii) the petitioner no. 1 & 2, being



aware of all facts about the reputation of complainant/O.P. No. 2, used derogatory words against him in the presence of his family members and patients and thus deliberately maligned the reputation of the complainant/O.P. No. 2 in the eyes of the society.

7. Based on the SA of the complainant/ O.P. No. 2 as well as the deposition of the witness, the **learned ACJM-VIII, Patna** vide an order dated **07.06.2022** was pleased to take cognizance against the petitioners under **sections 500/34 of the I.P.C.**

(iii) Cr. Misc. No. 50896 of 2024

8. The third application has been filed for:

quashing of the order dated 14.10.2022 passed by the learned Additional Chief Judicial Magistrate – VIII, Patna by which cognizance has been taken under Sections 379, 504/34 of the Indian Penal Code in connection with Complaint Case No. 8080 (C) of 2022.

9. The O.P. No. 2, namely, **Rohit Prakash** filed a complaint before the **Chief Judicial Magistrate, Patna,**



bearing **Complaint Case No. 8080 (C) of 2022 on 02.07.2022**,
alleging about the occurrence for the period January to May
2021 as also in May 2022.

10. The complainant's case in brief is as follows :-

(i) the complainant, Rohit Prakash got married to Anushree Srivastava (petitioner no. 1) on 06.12.2020 as per Hindi rituals and customs. They had a simple wedding without any dowry demand and the expenses of the marriage were borne by their own families. It was alleged by the complainant that his family members gifted gold jewelleryes as well as other expensive items to petitioner no. 1 and her family and they never demanded nor accepted any gifts. Further, as the petitioner no. 1 was the only earning member of her family at the time of the marriage, she had a dominating and arrogant behavior which continued after the marriage;

(ii) it has further been alleged by the Complainant that petitioner no. 1 was being instigated by her family, to pressurize the complainant to get his job transferred to U.P. or



Delhi and to have separate household. Gradually, the behavior of petitioner no. 1 turned hostile and she started abusing and misbehaving;

(iii) further, the petitioner no. 1 went to Pune with Complainant, after four days of stay at her matrimonial home. There, she pressurized complainant to sell the house situated in Patna, so that they could buy a flat in Pune or U.P., otherwise, she would lodge a frivolous case against complainant and his family. It was further alleged by the complainant that petitioner no. 1 used to get medicine from petitioner no. 3 to administer on him through food, leading to his intoxication;

(iv) during the stay at Pune, petitioner no. 1 got ill and complainant took her to a doctor. Later, on 12.01.2021, petitioner no. 1 came to her matrimonial home. Further, when his mother enquired about the health condition of petitioner no. 1 from her mother (petitioner no. 3), she started abusing his mother. Once the



petitioner no. 1 also locked her mother-in-law in the bathroom;

(v) the further allegation is that petitioner nos. 2 and 3 came to his house at Patna in February 2021 and ill treated with his mother. When she opposed, then all of them scuffled with his mother. Further, the petitioner no. 1 and petitioner no. 2 used to defame his father in the presence of his friends and patients and called him quack and questioned his medical degree. When complainant opposed the aforesaid behaviour of petitioner no. 1, she turned violent, started abusing and beating complainant's mother too. She was always supported by her parents;

(vi) further, the complainant also alleged that petitioner no. 1 always used to pressurize him and his father to get the house registered in her name failing which she would implicate them in a frivolous case while petitioner no. 2 and 4 threatened him and his family members that they would be kidnapped



and killed, if they would lodge any case against petitioner no. 1;

(vii) the complainant further alleged that petitioner no. 1 came to Patna in May 2021, and started abusing his parents. On 20.05.2021, the petitioner no. 2 came to Complainant's home and he too resorted to abuse. Thereafter, in June 2021, petitioner no. 2 talked to Complainant's father over a phone call and defamed Complainant. Due to the mental harassment, he resigned from his job. Further, petitioner no. 1 left her matrimonial home on 20.05.2021 along with her jewelleries and other expensive items and also took away the jewelleries of his mother;

(viii) further, on 19.10.2021, he was blessed with a baby girl, but the complainant and his parents could not make it to Ghaziabad because of intimidation. The Complainant and his father received intimidation calls from petitioner No. 2 on several days and in November 2021, Petitioner No. 2 over a phone



call to Complainant's father made a baseless and unpleasant remarks regarding his marriage being void on the pretext of Complainant's being intoxicated at the time of marriage.

(ix) further, petitioner no. 1 sent her two cousins to the complainant's home who forcibly tried to take his mother's signature on a blank paper. They also threatened the complainant's mother and fled away. The complainant was also threatened by the petitioners of dire consequences. Hence, the complaint.

11. After the SA of the complainant and the deposition of the witnesses, the **learned ACJM-VIII, Patna** vide an order dated **14.10.2022** was pleased to take **cognizance** under **sections 379, 504 and 34 of the I.P.C.**

12. Aggrieved by the orders taking cognizance against them, the petitioners preferred the three quashing applications.

(B) SUBMISSIONS:

(a) PETITIONERS' VERSION:

13. Learned Senior counsel for the petitioners, Mr.



Anshul submit that the real fact of the case is that the petitioner no. 2's daughter i.e. **Anushree Shrivastava** (petitioner no. 1) got married to **Rohit Prakash** on **06.12.2020** as per the Hindu rituals and customs in Radisson Blu Hotel, Kaushambi, Vaishali. The venue of the marriage was selected after the O.P. No. 2/complainant and his wife built enough pressure on the petitioner no. 1's parents. The petitioner no. 1's parents, apart from Radisson Blu Hotel, booked two other hotels for the marriage related functions. He also booked flight tickets and taxis for the O.P. No. 2/complainant and his family members.

14. However, from the date of marriage, their behavior was never good towards the petitioner no.1 and she was always ill treated. After many failed attempts, the petitioner no. 1 was left with no other option but to approach the court of law. Thus, the petitioner no. 1 on **28.04.2022** filed an application vide **Case No. 1298 of 2022** before the **Learned ACJ (JD/FTC)** under **section 12 of Domestic Violence Act** against her husband, **Rohit Prakash** as also his parents.

15. She filed another application vide **Case No. 356 of 2022** before the **learned Principal Judge, Family Court, Ghaziabad** under **section 125 of the Cr.P.C.** claiming maintenance for her and as also her daughter (who had arrived



in this world) from Rohit Prakash.

16. The third application was preferred by her vide **FIR bearing Mahila P.S. Case No. 118 of 2022** dated **16.06.2022** under sections **498A, 323, 504, 506 and 406 of the I.P.C.** as also **under sections 3 and 4 of the Dowry Prohibition Act, 1961** against **Rohit Prakash**, his mother, **Sushma Sinha** as also the father, **Dr. Om Prakash**, the three opposite parties in the aforesaid three cases. The submission is that these cases are counter blast to the cases filed by the petitioner no. 1

17. Learned Senior counsel further submits that though in the first complaint case, the complainant in her statement on affidavit has supported the allegations, she has specifically stated that her daughter-in-law i.e. petitioner no. 1 though raised her hand but did not hit her. Further, the, witness no. 2, in his statement to the learned court has said that he lived upstairs while the complainant (his sister-in-law) and his brother lived downstairs in the same house. Though he has supported the complaint contents, nowhere in his deposition as well as his statement to the learned Court, has stated anything about the petitioner no. 2 recording the bathing video of O.P. No. 2 Sushma Sinha (in Cr. Misc. No. 45169 of 2024).



18. Learned Senior counsel for the petitioners submit that so far as the second case is concerned, again, the petitioner no. 1 is the daughter-in-law of the opposite party no. 2/complainant while the petitioner no. 2 is the '*Samdhi*' and father of the petitioner no. 1 in the present case. The submission is that even taking the complaint on face value, no case is made out against the petitioners for want of deposition of any patient/public before whom the utterances and made, the learned Magistrate erred in taking cognizance under **Sections 500/34 of the I.P.C.**

19. It has been informed that the order dated 23.05.2023, 02.07.2023 and 09.01.2024 passed by the learned ACJM-VIII, Patna by which process under 82 and 83 of the Cr.P.C. were issued/permanent warrant of arrest issued against them was challenged in **Cr.W.J.C. 1300 of 2024** presently pending before Patna High Court. The submission is that this again is counterblast to the cases filed by the petitioner no. 1 against the mother-in-law, father-in-law as also the husband.

20. So far as the third petition (Cr. Misc. No. 50896 of 2024) is concerned, the contention of the learned Senior counsel is that the petitioner no. 1 is the wife of the opposite party no. 2/complainant while petitioner nos. 2, 3 and 4 are his



father-in-law, mother-in-law and brother-in-law respectively. The submission is that the allegation in present case is mere repetition of what his parents have alleged which led to the filing of the aforesaid two cases. The further submission is that nowhere in the complaint, the role of the brother of the petitioner no. 1, namely, Ayush Shrivastava has been alleged, still he has been made an accused in the present case and cognizance also taken against him.

21. In support of the aforesaid cases, learned Senior counsel for the petitioners referred to a judgment of **Hon'ble Apex Court in Abhilasha Sharma & Ors. vs. the State of Himachal Pradesh & Ors. in Cr. Appeal No. 1073 of 2025 [arising out of S.L.P. (Criminal) No. 3801 of 2024]** and submits that in similar matter the Hon'ble Apex Court interfered after holding that the filing of the complaint is nothing but an abuse of process of law.

22. Paragraph No. 5 of the judgment in **Abhilasha Sharma & Ors.** (supra) read as follows:

“5. With the assistance of the learned counsel appearing for the parties, we have perused the complaint. The contention raised by the learned counsel appearing for the second and



the third respondents is that, according to the said respondents, the ornaments and other articles of the second respondent were stolen by the appellants in August, 2020. The complaint was filed on 21 October, 2021. Thus, going by the case of the second and third respondents, in 2021, before filing one complaint, the third respondent filed a petition for Restitution of Conjugal Rights against the first appellant. If according to the third respondent, if the first appellant had indulged in the activity of theft in his house, surely he would not have filed a petition for Restitution of Conjugal Rights for enjoining the first appellant to resume cohabitation with him. What is most important is that the factum of filing a petition under section 9 of the Hindu Marriage Act, 1955 was suppressed from the complaint.”

23. He further referred to another **Hon’ble Supreme Court Case in Salib alias Shalu alias Salim vs. State of Uttar Pradesh and Others reported in (2023) 20 SCC 194** with specific reference to **paragraph-26** which read as follows:



“26. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (Cr.P.C.) or 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 for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just 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. 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 try to read in between the lines. The Court while exercising its jurisdiction under Section 482 CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.



24. He concludes by submitting that in the aforesaid particular facts and circumstances, the petitions need to be allowed and the orders taking cognizances be quashed.

(b) OPPOSITE PARTIES' VERSION

25. Mr. Bindhayachal Singh, learned Senior counsel represents the opposite parties in all the three cases. He submits that several facts have been concealed by the petitioners in these cases. The submission is that against the cognizances order passed by the learned Magistrate in the case filed by the mother-in-law, Sushma Sinha; Anushree Shrivastava and her father moved before the **Hon'ble Apex Court in Transfer Petition (Criminal) Diary No(s). 41799/2022 (Anushree Shrivastava & Anr. vs. Sushma Sinha & Anr.)**.

26. It was taken up on **28.04.2023** i.e. prior to the filing of the present petition and the Hon'ble Apex Court chose not to entertain the said petition (arising out of Complaint Case No. 5992(C) of 2022) but requested the concerned Court to consider the petitioners' application for exemption from appearance reasonably and pass an order having regard to the circumstance and accommodate her to the extent possible by facilitating video hearings and in case, her presence is required, specific dates of her convenience may be given.



27. The order dated 28.04.2023 passed by the Hon'ble Apex Court read as follows:

“Delay condoned.

This Court is not inclined to entertain this petition. However, at the same time we are of the opinion that the Court seized of the proceedings i.e. Complaint No. 5992(C) of 2022 pending in the Court of Judicial Magistrate, 1st class, Patna, Bihar. The Court at Patna should consider the petitioner's application for exemption from appearance reasonably and pass an order having regard to her circumstances and further accommodate her to the extent possible by facilitating video hearings. In case her presence is required, specific dates of her convenience may be given.

The petition is disposed of in the above terms.

All the pending applications are disposed of.”

28. Learned Senior counsel for the opposite parties submit that the order of the Hon'ble Apex Court is dated



28.04.2023 but even after the passage of one year, the petitioners chose not to abide by the said order by appearing before the Court. Instead, the quashing applications were filed.

29. He submits that a perusal of the complaint lodged by the complainant, **Sushma Sinha** in first case (**Cr. Misc. No. 45169 of 2024**) would show that she has made allegation not only against her daughter-in-law but also the '*Samdhi*' that he videographed her while she was bathing in her bathroom. In that background, a *prima facie* a case is definitely made out and only because the petitioner no. 1 lodged cases against them earlier cannot be a ground to quash the present case. He submits that sometimes, in the family, one hesitates in lodging the case taking into account the family prestige and such delay must be respected in this context. The submission is that the incidents continued from January 2021 to May 2022 thus forming a continuous chain of harassment, insult, theft and intimidation.

30. Learned Senior counsel submits that so far as the second case filed by **Dr. Om Prakash** which led to the institution of the **Cr. Misc. No. 50723 of 2024** is concerned, the O.P. no. 2 being a reputed Doctor, when he was abused in the Clinic in front of the patients calling him as a quack and



eunuch, it definitely lowered his image in the eyes of the public. Further, in the month of March, 2022, the petitioners telephoned relatives spreading false rumours that the Doctor is having fake degrees. Thus, the learned Court was fully justified in taking cognizance under sections **500/34 of the I.P.C.** against the petitioners after recording the deposition of the complainant and witnesses.

31. Regarding the third case (**Cr. Misc. No. 50896 of 2024**), it is the contention of the learned Senior Counsel that the husband, **Rohit Prakash** was pressured to sold his Patna home, tortured during their stay at Pune after the marriage, his mother was ill treated and prestige of his father was lowered in front of his patients. He however, concede that the allegation more or less already stands incorporated in the cases filed by the mother, **Sushma Sinha** and father, **Dr. Om Prakash**. He further accepts the fact that so far as **the petitioner no. 3, Archana Shrivastava** and **the petitioner no. 4, Ayush Shrivastava** are concerned, no direct allegation is there against them.

32. Learned Senior counsel concludes by submitting that all the petitions are fit to be dismissed.

(C) FINDINGS:



33. This Court has taken note of the allegations made by **Sushma Sinha**, O.P. No. 2 (**in Cr. Misc. No. 45169 of 2024**). Four allegations that can be taken note of are as follows:

(i) the petitioners intimidated her repeatedly;

(ii) her blood pressure medicines were changed;

(iii) she was video-graphed when the lady was bathing;

(iv) valuable items were taken away by the petitioners while leaving.

34. It is true that cases came to be filed against the opposite parties after the filing of the cases by the petitioner no. 1, Anushree Shrivastava. However, that in no way dilutes the allegations that has/have been made against the accused persons. It is true that sometimes, in the family, it becomes hard to immediately take steps when the incident takes place but once the knives are out, the complainant has every right to lodge the FIR/file complaint against the accused persons. Only because the complaint was filed at later stage cannot be the ground to quash the cognizance order, if *prima facie*, a case is made out.



35. This Court is satisfied that the kind of allegation that have been made by the O.P. No. 2 in the complaint, certainly, a *prima facie* case is made out against the petitioners herein under the aforesaid sections. Thus, the learned Magistrate was fully justified in taking cognizance against the petitioners under sections **354(c), 504 and 506/34 of the IPC.**

36. So far as the case filed by **Dr. Om Prakash** is concerned in which cognizance was taken and led to **Cr. Misc. No. 50723 of 2024;** again, the ingredient attracting **Section 500/34 of the I.P.C.** is/are there inasmuch as the allegation is that in front of the patients/family members, the O.P. No. 2, who is having Medical degree and is a reputed Doctor was repeatedly called a quack.

37. The Doctor claims to have a valid Medical certificate, is doing his professional work and if he is abused in the presence of his subordinates and patients calling him a quack as alleged, is telephonically threatened, the learned Magistrate justifiably took cognizance in the matter under the aforesaid sections against the petitioners. Certainly, the allegations levelled against the petitioners cannot be overlooked simply on the ground that the same has been preferred after petitioner no. 1 lodged the cases against them.



38. The Court also has to take into account the development that took place prior to the filing of the present cases. The petitioners moved before the Hon'ble Supreme Court for the transfer of the case (**Complaint Case No. 5992(C) of 2022**) vide **Transfer Case No. 41799/2022** . The relief sought for was refused. However, Hon'ble Apex Court allowed the petitioners to appear through video conferencing. Not only this fact was not incorporated in the present cases filed, they chose to defy the observation of the Hon'ble Apex Court by evading their presence before the Court.

39. However, so far as the Complaint case filed by **Rohit Prakash** (which led to **Cr. Misc. No. 50896 of 2024**) is concerned, a perusal of the complaint would show that it is more or less repetition of the allegations made by his parents namely, **Sushma Sinha** and **Dr. Om Prakash**. The learned Magistrates have already taken cognizance under different sections of the Indian Penal Code against the two petitioners in the aforesaid cases filed by his parents on the similar such allegations. Secondly, this Court do not find specific allegations against the **petitioner no. 3, Archana Srivastava** and **petitioner no. 4, Aayush Srivastava @ Ayush Srivastava**. As such, continuation of the aforesaid case against them shall be



an abuse of process of law.

40. So far as the Hon'ble Apex Court's order in the case of **Abhilasha Sharma & Ors.** (supra) is concerned, this Court has taken note of paragraph-5 of the said judgment where in the Court held that before the allegation that was made that the accused has stolen ornaments and other articles, a petition for restitution of conjugal rights was filed against the first appellant. The Hon'ble Apex Court, in that background, observed that if the first appellant had indulged in the activity of theft in the house, surely he would not have filed a petition for restitution of conjugal rights for enjoining the first appellant to resume cohabitation with him.

41. Here the story is quite different. The allegation that the lady has made is that not only of being abused regularly by both the petitioners, was also threatened of dire consequences and further, while bathing, a video was made and in that background, the concerned Court was fully justified in taking cognizance in the matter filed by Sushma Sinha. Each case has different facts and circumstances, Abhilasha Sharma's (supra) case definitely do not come to their rescue.

42. Again, so far as the case filed by **Dr. Om Prakash** is concerned, when a reputed Doctor is



abused/ridiculed in the clinic in the presence of the patients, compounders and other public, it definitely comes within the purview of sections **500/34 of the I.P.C.** Thus, the case of **Abhilasha Sharma** (supra) is not applicable in the present case.

43. So far as the case of **Salib Alias Shalu Alias Salim** is concerned, the Hon'ble Supreme Court took note of the fact that with an ulterior motive for wrecking vengeance, the case was filed and as such, the Court owes a duty to look into the FIR with care and a little more closely and thus multiple FIRs when filed/registered, it assumes importance attracting the issue of wrecking vengeance out of private or personal grudge.

44. However, again in the present case, the said order of the Hon'ble Apex Court is not applicable. Clear allegations have been made out against the two petitioners of abuse/threatened to assault. In that background, the Court cannot look the other way and interfere in a routine manner where cognizances have rightly been taken in the two cases.

45. This Court must record here the case of **State of Haryana & Ors. vs. Bhajan Lal and others** reported in **1992 SCC (Cri) 426** wherein the Hon'ble Supreme Court in



paragraphs 102 and 103 held 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 have given 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 concerned Act (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 concerned Act, 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.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of



rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.”

46. Para 103 of the order of the Hon’ble Apex Court is very clear – power of quashing a criminal proceeding must be exercised sparingly and with circumspection and in the rarest of the rare case.

47. This court is satisfied that so far as the cases filed by **Sushma Sinha** (leading to **Cr. Misc. No. 45169 of 2024**) and **Om Prakash** (leading to **Cr. Misc. No. 50723 of 2024**) are concerned, *prima facie*, it constitutes offence. As such, no interference is required. However, the case filed by **Rohit Prakash** (leading to **Cr. Misc No. 50896 of 2024**) is repetition of offences already incorporated in the two complainants filed by his parents and thus has to go.

(D) ORDER:

48. **Cr. Misc. No. 50896 of 2024 (Anushree Srivastava & Ors. Vs State)** is allowed by quashing the order



dated **14.10.2022** by which cognizance has been taken against the petitioners under **Sections 379 and 504/34 of the IPC.**

49. So far as the **Cr. Misc. No. 45169 of 2024 (Anushree Shrivastava & Anr vs. State)** and **Cr. Misc. No. 50723 of 2024 (Anushree Shrivastava & Anr. vs. State)** are concerned, this Court is of the opinion that the learned Magistrates have rightly taken cognizances against the petitioners in the complaint cases (which led to the filing aforesaid two cases) and as such, no relief can be extended to petitioners.

50. Accordingly, the **Cr. Misc. No. 45169 of 2024 (Anushree Shrivastava & Anr. vs State)** and **Cr. Misc. No. 50723 of 2023 (Anushree Shrivastava & Anr. vs State)** are hereby dismissed. The stay orders granted in the aforesaid two cases stand vacated.

51. Office to take steps and communicate the order to the concerned Courts immediately.

(Rajiv Roy, J)

Adnan/-

AFR/NAFR	AFR
CAV DATE	12.12.2025
Uploading Date	19.12.2025
Transmission Date	19.12.2025

