

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43624 of 2025

Arising Out of PS. Case No.-3 Year-2023 Thana- MAHILA P.S. District- Bhagalpur

-
1. Md. Shamim Khan S/O Late Shakim Khan
 2. Nashrin Khan W/O Md. Shamim Khan
Both are Residents of Raushan Nagar (Murli Manohar Mandir), P.S.-
Kharagpur, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Taiyabba Ayaz W/O Sunny Khan @ Sharik Khan, D/O Ayaz Hanif R/O
Mohalla- Habibpur, Maszid Road, South Tola, P.O and p.S- Habibpur, Distt.-
Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajit Kumar Singh, Advocate
For the Opposite Party/s : Mr. Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 27-11-2025

Heard learned counsel appearing on behalf of the
petitioners and learned APP for the State.

2. The petitioner has preferred application under
Section 528 of BNSS for quashing the order dated 21.05.2025
passed by the learned Judicial Magistrate, 1st Class, Bhagalpur
in connection with Mahila P.S. Case No.03/2023, by which the
learned District Court has rejected the discharge petition filed by
the petitioners under Sections 239 of Cr.P.C.

3. The prosecution story, in short is that marriage of
the informant was solemnized with the son of petitioners on



29.11.2021 but soon after their marriage, her husband and in-laws started demanding rupees twenty lacs and for non-fulfillment of the demand, they subjected her to cruelty both both mental and physical. On 07.05.2022, the informant was forcibly evicted from matrimonial house. On 23.12.2022, the informant gave birth to a male child, for which the information was given to these petitioners and her husband but they never came to take them to their matrimonial house. Aggrieved by the said act, the informant has filed the FIR on 03.02.2023 against the accused persons including the petitioners.

4. Learned counsel appearing on behalf of the petitioners submitted that the discharge petition, filed before the learned District Court under Section 239 Cr.P.C. on behalf of the petitioners, who are father-in-law and mother-in-law of O.P. No.2 after cognizance was taken against them under Sections 498A, 341, 323, 504, 506/34 of the IPC vide order dated 12.09.2023, was dismissed *vide* order dated 21.05.2025. It is submitted that petitioners are not responsible in any manner for the strained matrimonial relationship between their son and O.P. party no.2. He further submitted that no material was collected against the petitioners save and except that is alleged in the FIR against them. Even though learned Magistrate while dismissing



the application filed under Section 239 Cr.P.C. has only recorded the expression of the informant that she was persuaded and pestered to fulfill the demand of rupees two lacs as dowry. He further submitted that the material available on record don't disclose any criminal element and as such the impugned order cannot sustain in the eye of law. Learned counsel further submitted that marriage is a sacred ceremony but little matrimonial skirmish suddenly erupts into hatred and the parties ponder to reconcile their dispute outside the court.

5. Learned APP submitted that opportunity shall be given to the parties to reconcile their dispute amicably.

6. Heard the parties.

7. The law in respect of matrimonial dispute between husband and wife is well settled at the same time, the Apex Court recently in the case of *Navneesh Aggarwal & Ors. v. State of Haryana & Anr.* reported in **2025 INSC 963** has held that the family members of husband should not be roped unnecessarily and face vexatious criminal trial.

8. It is commonly seen in the society that the entire family members, as well as, relatives are made accused along with the husband to face criminal prosecution. The Apex Court has demarcated the manner in which the complaints are



entertained by the learned District Court.

9. Recently also, the Apex Court in the case of ***Mange Ram Vs. State of Madhya Pradesh & Another (Special Leave Petition (Criminal) No.10817 of 2024)***, in paragraph nos. 25, 31 and 32 has reiterated that in cases, particularly, related to dowry, opportunity be given to the parties first to reconcile, which *inter alia* are as follows:-

“25. This Court, in Dara Lakshmi Narayana vs. State of Telangana, (2025) 3 SCC 735, has made it clear that family members of the husband ought not to be unnecessarily roped into criminal proceedings arising out of matrimonial discord. The Court observed that it has become a recurring tendency to implicate every member of the husband’s family, irrespective of their role or actual involvement, merely because a dispute has arisen between the spouses. It was further held that where the allegations are bereft of specific particulars, and particularly where the relatives sought to be prosecuted are residing separately or have had no connection with the matrimonial home, allowing the prosecution to proceed would amount to an abuse of the process of law. The Court noted that criminal law is not to be deployed as an instrument of harassment, and that judicial scrutiny must be exercised to guard against such misuse.

31. We also refer to Gian Singh vs. State of Punjab, (2012) 10 SCC 303 wherein this Court observed that where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled, although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored, securing the ends of justice being the ultimate guiding factor. In this regard, a specific reference was made to offences arising out of matrimony, particularly relating to dowry, etc. or a family dispute, where the wrong is basically to the victim but the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made



compoundable. The High Court may, within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

32. In Naushey Ali vs. State of U.P., (2025) 4 SCC 78, one of us (Viswanathan, J.) observed in paragraph 32 that proceeding with the trial, when the parties have amicably resolved the dispute, would be futile and the ends of justice require that the settlement be given effect to by quashing the proceedings. It would be a grave abuse of process particularly when the dispute is settled and resolved."

10. Considering the fact that the learned Magistrate while dismissing the application filed under Section 239 Cr.P.C. has only recorded the expression of the informant that she was persuaded and pestered to fulfill the demand of rupees two lacs as dowry as well as, relying on the decision of the Supreme Court in the case of ***State of Karnataka v. L.Muniswamy*** reported in ***(1977 Cr.LJ 1125)***, wherein it was held that that "if no reason at all has been assigned by the trial Court for refusing to discharge the accused petitioners, such order suffers from serious infirmity." In the FIR, it is evident that there is no specific allegation against the petitioners and in course of investigation also no materials has come against the petitioners.

11. This Court finds that this is the one case, in which it can be said that the petitioners, being father-in-law and mother-in-law of O.P. No.2 have been dragged on the basis of



false accusations as per the allegation made in the FIR. In light of the recent judgment of Apex Court in the case of *Navneesh Aggarwal & Ors. v. State of Haryana & Anr.* reported in *2025 INSC 963*, and in absence of any material against the petitioners, the order dated 21.05.2025 passed by the learned Judicial Magistrate, 1st Class, Bhagalpur, by which he has rejected the discharge petition filed by the petitioners, is hereby **quashed and set aside.**

12. However, the petitioners being the close family members, are directed to participate in the mediation, if it is held or is going on between the husband and wife.

13. The application stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.11.2025
Transmission Date	28.11.2025

