

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36036 of 2021

Arising Out of PS. Case No.-3117 Year-2018 Thana- VAISALI COMPLAINT CASE District-
Vaishali

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| <p>1. Rameshwar Prashad Sharma</p> <p>2. Maya Prashad, W/o Rameshwar Prashad Sharma
Both are R/O C/A, P.C. Colony, Kankarbagh, Malahi Pakdi, P.S.-
Kankarbagh, District-Patna</p> | <p>... .. Petitioner/s</p> <p style="text-align: center;">Versus</p> <p>1. The State of Bihar</p> <p>2. Anita Devi, W/o Late Surendra Sharma, R/o Village-Gandhi Ashram, Ward
No.22, P.S-Hajipur, District-Vaishali, Bihar.</p> |
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... .. Opposite Parties

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with

CRIMINAL MISCELLANEOUS No. 10450 of 2021

Arising Out of PS. Case No.-3117 Year-2018 Thana- VAISALI COMPLAINT CASE District-
Vaishali

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| <p>1. Anil Sharma, Son of Rameshwar Prashad Sharma</p> <p>2. Archna Sharma, Daughter of Rameshwar Prashad Sharma</p> <p>3. Veena Sharma, Wife of Anil Sharma</p> <p>4. Sharwan Sharma,
All are R/o. C/A, PC Colony, Kankarbagh, Malahi Pakdi, P.S.- Kankarbagh,
Dist.- Patna</p> | <p>... .. Petitioners</p> <p style="text-align: center;">Versus</p> <p>1. The State of Bihar</p> <p>2. Anita Devi, Wife of Late Surendra Sharma, R/o Village - Gandhi Ashram,
Ward No. 22, P.S.- Hajipur, District - Vaishali, Bihar</p> |
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... .. Opposite Parties

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 36036 of 2021)

For the Petitioner/s : Mr. Alok Kumar Jha, Advocate

For the State : Mr. A.G.

For the O.P. No.2 : Mr. Mirityunjay Kumar, Advocte

(In CRIMINAL MISCELLANEOUS No. 10450 of 2021)

For the Petitioner/s : Mr. Alok Kumar Jha, Advocate

For the Opposite Party/s : Mr. A.G

For the O.P. No.2 : Mr. Mirityunjay Kumar, Advocte



CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT
Date : 11-02-2025

Heard learned counsel for the petitioners and learned APP appearing on behalf of the State duly assisted by learned counsel appearing for opposite party no.2.

2. Both applications has been filed by the petitioners for quashing the order taking cognizance dated 23.07.2019 passed by learned S.D.J.M., Vaishali at Hajipur in connection with Complaint Case No. C1 3117 of 2018 corresponding to Tr. No.2776 of 2019, whereby the learned Jurisdictional Magistrate took cognizance under Sections 498-A/ 34 and 323 of the Indian Penal Code (in short 'IPC') as well as Sections 3 and 4 of the Dowry Prohibition Act against the petitioners and others.

3. The case, in brief, as per complainant namely, Anita Devi, that the marriage between her daughter Munmun Kumari and Sujit Sharma was solemnized on 28.04.2017 as per the Hindu rites and customs and the complainant gave the amount of Rs.12,00,000/- in cash as gift and Rs. 4,70,000/- to accused no.1, 2 and 6 for expenditure in marriage, Rs. 1,25,000/- to accused no.2 and 7 for purchase of cloths and



also gave the amount of Rs.3,00,000/- for purchase of gold ornaments and Rs. 20,000/- for purchase of silver ornaments. It is further alleged that accused No.2, 3, 4, 5 and 7 started cruelty for non-fulfilment of a four wheeler vehicle as a dowry and evicted the daughter of the complainant from her matrimonial home. It is further alleged that after eviction from the shared house, relative of the complainant mediated the matter and with the efforts of one close relative, namely, Sujit Sharma, matter was settled with the condition that the complainant shall pay the amount of Rs. 2,00,000/- to petitioner against four wheeler vehicle and, thereafter, daughter of the complainant joined the company of her husband, namely Sujit Sharma and went to the Bangalore, where accused no.2 and 5 were also resided and both these persons usually committed cruelty in absence of husband of her daughter. Said information was given to the complainant by her daughter that her husband used to torture her and in presence of her husband, accused no.2 misbehaved with her also and after making objection, she was subjected to the cruelty, where during the treatment it was noticed by the



daughter of the complainant that miscarriage was done due to serious ill-treatment and beating by the accused persons.

4. It is submitted by learned counsel that petitioners are in-laws and distant relatives of the daughter of the complainant. It is submitted by learned counsel appearing on behalf of the petitioners that matter has been compromised between the parties and in terms of compromise payment of Rs. 4,00,000/- (Rupees Four Lakh) towards final settlement amount was already paid in two installments by way of Demand Draft to daughter of opposite party. It is further submitted that the first installment of Rs.2,00,000/- shall be paid by the petitioners to the complainant/opposite party no.2 at the time of presentation of first motion of divorce by mutual consent by way of demand draft and second and final installment of Rs. 2,00,000/- shall be paid at the time of presentation of the second motion of divorce by mutual consent by way of demand draft. It is further submitted that both the parties are agreed mutually that all the matters/issues/disputes arising out of the matrimonial relationship between the parties stand



fully settled as per the terms of this settlement.

5. Learned APP duly assisted by learned counsel for the opposite party no.2 affirmed that the matter has been compromised between the parties before the S.D.J.M. Vaishali at Hajipur and, as of now, no dispute is pending between the parties.

6. It would be apposite to re-produce the settlement terms of Mediation Centre, Vaishali at Hajipur, which is as under :-

"SETTLEMENT DEED/M.O.U.

This Settlement Deed/Memorandum of Understanding is made at Hajipur, Vaishali, Bihar, on this Nineteenth day of March, 2024:-

BETWEEN

1. SUJIT SHARMA (HUSBAND)
SON OF SHRI KAMESHWAR PRASAD
AGED ABOUT-46 YEARS
RESIDENT OF CA/53, P.C. COLONY
POLICE STATION-KANKARBAGH, DISTRICT-PATNA,
BIHAR-800020
2. SHRI ANIL SHARMA (BROTHER OF SUJIT SHARMA)
AGED ABOUT-48 YEARS
3. SMT. ARCHANA SHARMA (SISTER OF SUJIT SHARMA),
AGED ABOUT-50 YEARS.
4. SMT. MAYA PRASAD (MOTHER OF SUJIT SHARMA) AGED
ABOUT-76 YEARS.
5. SMT. VEENA SHARMA (SISTER-IN-LAW OF SUJIT
SHARMA), AGED ABOUT-37 YEARS
6. SHRI RAMEMESHWAR SHARMA (BROTHER-IN-LAW OF
SUJIT SHARMA, AGED ABOUT-53 YEARS

... FIRST PARTY

And

1. MUNMUN SHARMA @ MUNMUM KUMARI (WIFE), WIFE
OF SUJIT SHARMA, DAUGHTER OF LATE SURENDRA



SHARMA, AGED ABOUT-36 YEARS, RESIDENT OF GANDHI ASHRAM, OPPOSITE HAJIPUR RAILWAY STATION, POLICE STATION-SADARTHANA, DISTRICT-VAISHALI, BIHAR-844101.

2. SMT. ANITA DEVI (MOTHER OF MUNMUM SHARMA @ MUNMUN KUMARI), AGED ABOUT-68 YEARS.

.. ... SECOND PARTY

WHEREAS the First Party (1) and Second Party (1) had married with each other on Date 28th April 2017 at Raj Utsav Hall, Vijay Nagar Colony, Hanuman Nagar, Patna according to Hindu rites and ceremonies and from the said wedlock no issue was born.

AND WHEREAS owing to the irreconcilable differences and due to incompatibility of temperaments and lack of trust First Party (1) and Second Party (1) are residing separately and have not cohabited since 12th December 2017 and they have not been able to live together peacefully as husband and wife and their marriage has broken down irretrievably and even repeated efforts of reconciliation and settlement by the family members and well-wishers of both the parties have failed.

AND WHEREAS on account of intervention and subsequently the order of the Hon'ble Principal Judge (Shri. Syed Mohammad Shabbir Alam), Family Court, Vaishali Court in the counselling held on 15th February 2024, First Party (1) and Second Party (1) have now decided to dissolve their marriage by a decree of divorce by mutual consent with a view to bring about peace and harmony in their lives and their respective families and to ensure better future for the parties so that all members may live peacefully in future.

AND WHEREAS now the parties have settled the matter fully and final amicably on the following terms and conditions:-

(a) That First Party (1) and Second Party (1) have agreed that dissolution of marriage is without any consideration and First Party and Second Party have settled all their disputes and claims as full and final settlement regarding Stridhan items, Permanent maintenance or alimony (past, present or future) and all other heads, whatsoever. Also, both the parties do not have any grievance against each other, beyond the terms of this settlement which they have duly and peacefully settled to their entire satisfaction.



(b) That the Second Party (1) left the matrimonial home with all of her belongings on 12th December 2017 in the presence of her relatives.

(c) That all the stridhan has been received by the Second Party (1) and nothing is left to be handed over to the Second Party (1) by the First Party (1).

(d) That both the parties shall not raise any claim/s or demand/demands against each other in respect of any claim whatsoever beyond this settlement.

(e) That it has been agreed between the parties (1) shall pay a total sum of Rs. 4,00,000/- (Rupees Four Lakhs only) to the second Party (1) towards final settlement amount to be paid in two installments by way of demand draft.

(f) That the application for Divorce by Mutual Consent shall be filed on 21 March 2024 along with the application for withdrawal of Complaint Cases by the Second party enumerated herewith-

(i) Matrimonial Case No. 363/18 Pending before Family Court Vaishal Hajipur

(ii) Maintenance Case No. 13/20 Pending before Family Court, Vaishali, Hajipur

(iii) Criminal Complaint Case No. 3117/18 Pending before S.D.J.M. Court, Vaishali, Hajipur filed by Smt. Anita Devi (mother of Munmun Sharma @ Munmun Kumari/Second party (2))

(iv) Divorce Case No. 272/23 Pending before Family Court, Vaishali Hajipur

(g) That Smt. Anita Devi (Second party (2)) had filed the Criminal Complaint Case No. 3117/18 against the First Party, pending before SDJM Court Vaishali, Hajipur. Further, the First Party (2 to 7) had filed two petitions Cr. MISC-10450/2021 and CR. MISC - 36036/2021 amongst them in the Hon'ble High Court, Patna for quashing of the Criminal Complaint Case No. 3117/18. As both the parties have now settled all their disputes and claims as full and final settlement regarding Stridhan items, Permanent maintenance or alimony (past, present or future) and all other heads, whatsoever Smt. Anita Devi (Second Party (2)) and her daughter (Second Party (1)) without any monetary claim or demand or condition agrees to withdraw the Criminal Complaint Case No. 3117/18 Pending before S.D.J.M. Court. Vaishali, Hajipur and agrees that she (Second Party (2)) and her daughter (Second Party (1)) has no Objection to quashing of the Criminal Complaint



Case No. 3117/18 as per the petitions filed in the Hon'ble High Court, Patna. To this effect if required, the Second Party (2) shall provide an affidavit which can be submitted at the Hon'ble High Court, Patna for quashing the Criminal Complaint Case No. 3117/18.

(h) That the first installment of Rs. 2,00,000/- (Rupees Two Lakhs only) shall be paid by the First Party (1) to the Second Party (1) at the time of presentation of the first motions of Divorce by Mutual consent by way of Demand Draft, payable in favour of Second Party (1) (Demand Draft Number 764643)

(i) That the second and final installment of Rs.2,00,000/- (Rupees Two Lakhs only) shall be paid by the First Party (1) to the Second Party (1) at the time of presentation of the second motion of Divorce by Mutual consent by way of Demand Draft, payable in favour of Second Party (1) (Demand Draft Number 764644)

(j) That the Second Motion of Divorce by Mutual Consent shall be presented after all Complaint Cases enumerated in point (f) above have been Disposed by respective Court where they are Pending.

(k) That it has been agreed that First Party (1) and Second Party (1) shall seek divorce by mutual consent from the competent Court by filing the mutual divorce petition and shall cooperate each other in filing the same Under Section 13B(1) and (2) under Hindu Marriage Act

(l) That First Party (1) and Second Party (1) shall appear before Family Court/competent court within thirty (30) days of execution of this MOU for obtaining divorce by mutual consent.

(m) That it has been agreed mutually between both the parties, that all the matters/issues/disputes arising out of the matrimonial relationship between the parties stand fully settled as per the terms of this settlement. That no Party shall have any other claim against the other Party in future for all times to come.

(n) That the parties hereto do not have any grievance left against each other, therefore, in view of the same, the Second Party undertakes that they shall not level any allegation on the First Party or cause to act in a manner so as to harm the reputation and image of the First Party, in the family or the society at large.

(o) That both the parties undertakes not to harass each other in any ways after Divorce is granted by the Hon'ble Court.



(p) That both the parties undertake not to initiate or proceed any criminal or any civil proceedings against each other or their respective family members or friends. They further undertake to withdraw all proceedings/cases/complaints against each other or their respective family members or friends, enumerated herewith but not limited only to the following list:-

(i) Matrimonial Case No. 363/18 Pending before Family Court Vaishal Hajipur

(ii) Maintenance Case No. 13/20 Pending before Family Court, Vaishali, Hajipur

(iii) Criminal Complaint Case No. 3117/18 Pending before S.D.J.M. Court, Vaishali, Hajipur filed by Smt. Anita Devi (mother of Munmun Sharma @ Munmun Kumari/Second party (2))

(iv) Divorce Case No. 272/23 Pending before Family Court, Vaishali Hajipur

(q) That the present Settlement Deed/ M.O.U. has been made between the parties with their own free sweet will and without any pressure, coercion or undue influence from any corner whatsoever and after fully agreeing to its contents.

(r) That the terms of the compromise have been read over and duly explained to the parties and witnesses in their vernacular language Hindi and understood by both parties and both parties affirm that they shall remain bound by the terms and conditions of the settlement as stated hereinabove and shall not breach the same. Both the parties further affirm and acknowledge that any violation of any of the terms of the settlement shall entitle the other party to take appropriate legal recourse against the defaulting party.

IN WITNESS WHEREOF, both the parties to this settlement deed have signed this Memorandum of Understanding (M.O.U.) on the day, month and year first above written.”

7. 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.”

8. In view of aforesaid factual submissions, as matter has been compromised in mediation proceeding between the parties, where petitioners are in-laws and facing general and omnibus allegation, therefore, continuing litigation before learned trial court in view of the legal ratio as



available through **Abhishek** (supra) would only amount to abuse of the process of law.

9. Accordingly, the impugned order taking cognizance dated 23.07.2019 passed by learned S.D.J.M., Vaishali at Hajipur in connection with Complaint Case No. C1 3117 of 2018 corresponding to Tr. No.2776 of 2019 with all its consequential proceedings are, hereby, quashed and set aside *qua* petitioners.

10. Both these applications stand allowed.

11. Let a copy of this judgment be communicated to the learned Trial Court immediately.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14-02-2025
Transmission Date	14-02-2025

