

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58061 of 2024

Arising Out of PS. Case No.-10 Year-2020 Thana- MAHILA P.S. District- Lakhisarai

1. Suraj Paswan @ Suraj Kumar Son Of Krishna Paswan R/V- Village- Hushaina, P.S.- Ariary, Distt.- Shekhpura, At Present R/O- Bhalota, P.S.- Jogata, Distt.- Dhanbad
2. Krishna Paswan Son Of Kameshwar Paswan R/V- Village- Hushaina, P.S.- Ariary, Distt.- Shekhpura, At Present R/O- Bhalota, P.S.- Jogata, Distt.- Dhanbad
3. Nirmala Devi Wife Of Krishna Paswan R/V- Village- Hushaina, P.S.- Ariary, Distt.- Shekhpura, At Present R/O- Bhalota, P.S.- Jogata, Distt.- Dhanbad

... .. Petitioners

Versus

1. The State of Bihar
2. Damini Devi @ Damini Kumari W/O Suraj Paswan R/o Santar mohalla, Lakhisarai P.O and P.S and Dist- Lakhisarai .

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Rajnish Chandra, Advocate

For the Opposite Party/s : Mr.Jitendra Kumar Giri, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 08-07-2025

Heard Mr. Rajnish Chandra, learned counsel appearing for the petitioners and Mr. Jitendra Kumar Giri, learned counsel for the opposite party no. 2.

2. The present application has been preferred under section 482 of the Code of Criminal Procedure, 1973 (in short, the 'Cr.P.C.') as to quash the FIR registered as Lakhisarai Mahila P.S. Case No. 10/2020 dated 03.03.2020 for the offences punishable under section 498A of the Indian Penal Code and section 3/4 of the Dowry Prohibition Act



against petitioners.

3. The prosecution case in brief as it appears from written information of the informant namely, Damini Kumari that she was married with Suraj Paswan @ Suraj Kumar (petitioner no. 1) in the year 2016, whereafter she joined her matrimonial home at Bholata Colony, Quarter No. 5, P.S. Jogta, District – Dhanbad (Jharkhand), where all the accused persons including her husband tortured her mentally and physically and also raised demand for one motorcycle and one Lakh rupees as dowry. It is further stated that in case of non-fulfillment of demand of dowry, accused persons threatened to re-marry petitioner no. 1, and finally on 02.11.2017, the informant was ousted from her matrimonial home.

4. It is submitted by learned counsel appearing for the petitioners that petitioner no.1 is the husband, whereas petitioner no. 2 and petitioner no. 3 are in-laws. It is pointed out that the present FIR was lodged on 03.03.2020 after three days when the ex parte decree of divorce was granted in favour of petitioner no. 1 on 29th February 2020 in original suit No. 482/2019 (Annexure 2). It is submitted that



informant failed to join the divorce proceeding before the court of learned Additional Principal Judge, Family Court, despite of valid service.

5. It is submitted that after aforesaid decree of divorce was never challenged by the informant, and same attains finality. It is pointed out that the informant lodged the present FIR with harassing attitude out of ulterior and oblique motive for the occurrence dated 02.11.2017 is year 2020.

6. It is submitted that the present FIR was lodged after three years in the background of aforesaid divorce decree. It is also pointed out that from perusal of FIR, it appears that the allegation regarding demand of dowry is general and omnibus against all the accused persons including petitioner no. 1. It is pointed out by learned counsel for the petitioners that on the last occasion when the parties are directed to present before this Court to explore the possibility of compromise, the O.P. No.2 slapped repeatedly to petitioner no. 1, which is sufficient to gather her approach towards petitioners.

7. In the aforesaid context, learned counsel for the



petitioners relied upon the legal report of Hon'ble Supreme Court as available through **State of Haryana and Ors. Vs. Bhajan Lal and Ors [(1992) Supp (1) SCC 335]**.

8. Mr. Jitendra Kumar Giri, learned counsel for the opposite party no.2, while opposing the present petition, could not disputed the facts, as submitted above, however, it is pointed out that petitioner no. 1 is the husband and O.P. No.2 is not getting maintenance, but, simultaneously, learned counsel also conceded that the maintenance proceeding is an independent proceeding having nothing to do with the decree of divorce.

9. It would be apposite to reproduce the legal ratio as available in paragraph '102' of **Bhajan Lal case (supra)**, which reads as under.

“**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. In view of aforesaid factual submissions and by taking note of fact as present FIR filed immediately after the decree of divorce dated 29.02.2020 as passed in Original Suit



No. 482/2019, where FIR appears filed out of ulterior and oblique motive having malicious approach, moreover, the allegation appearing very much general and omnibus in nature *qua* petitioner nos. 2 and 3 who are in-laws of the opposite party no.2.

11. In view of the aforesaid, the present F.I.R. being Lakhisarai Mahila P.S. Case No. 10 of 2020 dated 03.03.2020 pending in the court of S.D.J.M., Lakhisarai, with all its consequential proceedings is hereby quashed/set aside.

12. This application stands allowed.

13. Let a copy of this judgment be sent to the learned trial court immediately.

(Chandra Shekhar Jha, J)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.07.2025
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