

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53217 of 2025

Arising Out of PS. Case No.-22 Year-2023 Thana- MAHILA P.S. District- Nalanda

1. Doman Rajak S/o Late Jarmani Rajak Resident of Raithar, Police Station- Giriyak, District- Nalanda.
2. Shanti Devi W/o Doman Rajak, Resident of Raithar, Police Station - Giriyak, District-Nalanda.
3. Urmila Devi, Wife of Manoj Rajak Resident of Bhadauni, Police Station- Nawada, District- Nawada.
4. Usha Devi, Wife of Manish Rajak, Resident of Halsi, Police Station-Halsi, District- Lakhisarai.
5. Gore Rajak @ Gorelal Rajak Son of Karu Rajak Resident of Nardiganj Road, New Area Gharpar, Police Station-Nawada, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sapana Kumari D/o Lakshman Rajak Resident of Patalpura, Police Station- Manpur, District- Nalanda.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs.Kshem Sharma, Advocate.

For the Opposite Party/s : Mr.Md. Iftexhar Mahmood, APP.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 09-09-2025 Heard Mrs. Kshem Sharma, learned counsel appearing on behalf of the petitioners and Mr. Md. Iftexhar Mahmood, learned APP for the State.

2. The present application has been filed under Section 528 of the BNSS, 2023 for quashing of the order taking cognizance dated 03.06.2025 in connection with Mahila P.S. Case No.22 of 2023, whereby cognizance has been taken by the learned SDJM, Nalanda under Sections 498A, 341, 323, 379



and 506/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

3. Allegation is of subjecting the opposite party no.2 to various sorts of torture due to non-fulfillment of demand of dowry.

4. Learned counsel appearing on behalf of the petitioners submitted that the learned Sub Divisional Judicial Magistrate, Nalanda, in the most mechanical manner, without applying his judicial mind that the matter is purely civil in nature and without considering the material available on record, has taken cognizance against the petitioners *vide* order dated 03.06.2025, which cannot sustain in the eye of law. Learned counsel, in this regard, has relied upon the judgment of the Apex Court passed in case of ***Paramjeet Batra v. State of Uttarakhand***, reported in ***(2013) 11 SCC 673***, wherein in paragraph no. 12, the court has held as under:-

12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process



of the court.

5. In the case of ***Usha Chakraborty Vs. State of West Bengal, reported in (2023) 15 SCC 135***, while quashing the FIR therein and further proceedings based thereon, the Apex Court observed as under: -

‘...the factual position thus would reveal that the genesis as also the purpose of criminal proceedings are nothing but the aforesaid incident and further that the dispute involved is essentially of civil nature.’

6. The Apex Court has reiterated the aforesaid proposition in the recent judgment of ***S.N. Vijayalakshmi & Ors. Vs. The State of Karnataka and Anr.*** reported in ***(2025) SCC Online SC 1575***.

7. The petitioners are directed to appear before the learned District Court on 26.09.2025 at 10:30 AM.

8. Learned District Court is directed to take necessary steps to refer the matter before the learned Mediator of the District Mediation Center.

9. Learned Mediator of the District Mediation Center concerned shall make his/her best efforts to settle the dispute amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of four months, till then, no coercive action shall be taken against the petitioners in connection with the aforesaid case.



10. In case of failure on the part of the petitioners to appear on 26.09.2025 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the petitioners shall automatically lose its force.

11. In case, the parties fail to reconcile, then in that case, the learned District Court shall proceed with the trial.

12. In case the parties resolve their dispute amicably, then the proceeding is required to be dropped in light of the law laid down by the Apex Court as referred hereinabove.

13. Accordingly, the present quashing application stands disposed of.

(Purnendu Singh, J)

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