

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1682 of 2023

Arising Out of PS. Case No.-158 Year-2018 Thana- MAHILA P.S. District- Patna

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1. Mrs. Indu Bala W/o Mr. Shreekant R/o Tez Pratap Nagar, New Bye Pass Road, P.S.- Beur Anisabad, Patna.
 2. Mr. Saurabh Suman @ Saurabh Kumar S/o Mr. Shreekant R/o Tez Pratap Nagar, New Bye Pass Road, P.S.- Beur Anisabad, Patna.
 3. Miss Komal Sakshi @ Komal Kumari D/o Mr. Shreekant R/o Tez Pratap Nagar, New Bye Pass Road, P.S.- Beur Anisabad, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sudarshana Jyoti D/o Late Jamuna Prasad R/o - 558/C, Railway Gandak Colony, P.S.- Gandak Colony, Distt- Samastipur.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 1908 of 2023

Arising Out of PS. Case No.-158 Year-2018 Thana- MAHILA P.S. District- Patna

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1. Shashikant S/O Late Ram Keshab Prasad @ Ram Kewal Prasad Resident of Mohalla- Tej Pratap Nagar, New Bypass Road Anishabad, P.S.- Beur, Distt- Patna.
 2. Anita Devi @ Anita Prasad W/o Shashikant Resident Of Mohalla- Tej Pratap Nagar, New Bypass Road Anishabad, P.S.- Beur, Distt- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sudarshana Jyoti D/o Late Jamuna Prasad R/o Mohalla- Railway Gandak Colony, Quarter No. 558, P.S.- Samastipur, Distt- Samastipur.

... .. Opposite Party/s

with



CRIMINAL MISCELLANEOUS No. 63048 of 2024

Arising Out of PS. Case No.-158 Year-2018 Thana- MAHILA P.S. District- Patna

Shreekant S/o- Late Ram Kewal Prasad R/o- Tez Pratap Nagar, New Bye Pass
Road, Ps-Beur, Anishabad, Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sudarshana Jyoti D/o- Late Jamuna Prasad R/o- 558/C,Railway Gandak
Colony Ps- Gandak Colony Dist- Samastipur

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 1682 of 2023)

For the Petitioner/s : Mr. Nishant Kumar, Adv

For the Opposite Party/s : Mr. Lalan Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 1908 of 2023)

For the Petitioner/s : Mr. Birendra Narayan Sharma, Adv

For the Opposite Party/s : Mr. Uday Chand Prasad, APP

(In CRIMINAL MISCELLANEOUS No. 63048 of 2024)

For the Petitioner/s : Mr. Nishant Kumar, Adv

For the Opposite Party/s : Mr. Jai Narain Thakur, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 07-07-2025

Heard learned counsel for the petitioners and
learned counsel for the respondents.

2. The present quashing petitions preferred under
Section 482 of the Cr.P.C. as to quash the order dated
30.04.2022 passed by learned Additional Sessions Judge-1,
Patna, where Criminal Revision 271 of 2021 preferred by
petitioners was dismissed, challenging the order dated
19.07.2021 passed by learned Judicial Magistrate, 1st Class,



Patna, where learned J.M. took cognizance for the offences punishable under Section 417 of the Indian Penal Code, (in short 'IPC') and Section 3/4 of the Dowry Prohibition Act against all the petitioners in G.R. Case No. 9385 of 2018 arising out of Mahila P.S. Case No. 158 of 2018.

3. The case of prosecution speaks in brief that O.P. No. 2 namely Sudarshana Jyoti alleged that her marriage was arranged with Nishikant in 2017. She claimed that Nishikant forcibly established physical relations with her. Later on 19.12.2017, both applied for marriage registration under the Special Marriage Act at Samastipur, but Nishikant subsequently refused to attend the scheduled marriage in January 2018, whereafter her family members approached Nishikant's family. It is alleged that, despite having already received a sum of Rs. 1,00,000/- towards marriage related expenses, the accused persons further made an unlawful demand of Rs. 15,00,000/- as dowry, in contravention of the provisions of the D.P. Act. The marriage was scheduled again for 09.02.2018, but when the informant's relatives visited the petitioners' house with gifts, they remained adamant about



their dowry demand and continued harassment. A complaint was also made to the Mahila Police Station, but it was in vain. The informant further alleged that on 24.08.2018, when she visited the petitioners' house again requesting her marriage, Nishikant and other family members assaulted her, causing severe injuries, including a fracture in her finger. They also allegedly refused to return Rs. 1 lakh and threatened to kill her. It was subsequently revealed to the informant that accused Nishikant was in the process of finalizing marriage with another woman for dowry, and that he had a consistent pattern of deceitfully inducing marriage by misrepresenting his age and income, with the ulterior motive of extracting dowry, thereby committing offences punishable under the I.P.C. & D.P. Act, 1961.

4. Learned counsel for the petitioners submitted that the petitioners have been falsely implicated in the present case. It is submitted that an FIR was lodged on 15.10.2018, with an unexplained delay of 7 months after the alleged incident. Prior to this FIR, the informant had filed a complaint on 09.03.2018 at Mahila Thana, Patna only accusing



Nishikant (now deceased) of refusing marriage. It is also submitted that there were no allegations of sexual assault or dowry against other family members. It is also submitted that the FIR has been lodged as an afterthought, maliciously implicating Nishikant's entire family.

5. It is further submitted that upon due investigation, the police did not find any credible evidence establishing the involvement of the petitioners in the alleged offence. A final form/closure report (Supplementary Chargesheet No. 61/2019 dated 31.07.2019) was submitted, exonerating the petitioners. It is pointed out from the perusal of the FIR and from the statement of the informant as recorded under Section 161 Cr.P.C, the Court took cognizance on 19.07.2021 for offences punishable under Section 417 I.P.C. and Section 3/4 of the Dowry Prohibition Act. Countering the same, petitioners filed a criminal revision (Cr. Revision No. 271 of 2021), but it was dismissed by the Sessions Court on 30.04.2022.

6. It is submitted that the informant was previously married and subsequently divorced, a fact which



she allegedly concealed during the matrimonial discussions with accused Nishikant. It is further submitted that the informant purportedly created and used a false matrimonial profile with the intent to mislead, and upon discovering the said concealment, misrepresentation, Nishikant declined to solemnize the marriage. It is pointed out that the informant misused her legal knowledge (being a lawyer) to pressurize petitioners through police complaints and implicated petitioners due to ulterior and oblique motives. It is also submitted that Nishikant had also filed a complaint with the police and N.H.R.C. before lodging this FIR, but authorities failed to act upon.

7. Learned counsel for the petitioners questioned the validity of the informant's injury report, pointing out inconsistencies in dates and legibility, claiming that the reports have no connection with the alleged assault. It is also argued that as a lawyer, the informant cannot credibly claim to have been "allured" or "cheated."

8. It is submitted that Nishikant was compelled to institute a marriage petition under pressure; however, upon



learning of the informant's previous marriage, he declined to proceed with the matrimonial alliance. It was further submitted that he was subsequently arrested in October, 2018, which resulted in his incarceration for approximately one year. During the period of his judicial custody, he developed renal issues & ultimately succumbed to the illness while still in jail. It is further alleged that despite several years of trial from 2019-2024, the informant failed to produce any witnesses, revealing her malicious intent.

9. While travelling over the argument learned counsel submitted that two criminal complaint cases were lodged by Nishi Kant (deceased) i.e., Complaint Case No. 3738/2019 pending before learned A.C.J.M. IV, which now becomes infructuous and other one lodged by Dhananjay Kumar Sharma i.e., Complaint Case No. 600 of 2020 pending before learned JMFC-22 will also be withdrawn within four weeks. In view of the aforesaid, it is submitted by learned counsel that continuing with the present criminal proceeding *qua* petitioners before learned trial court would only amount to abuse of the process of court of law, and, therefore, same



be quashed and set aside. In support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Abhishek Vs. State of Madhya Pradesh** as reported in **2023 SCC Online SC 1083**. In support of his submission, learned counsel also relied upon the legal reports of Hon'ble Supreme Court as available through **Ansaar Mohammad Vs. State of Rajasthan and Another [2022 SCC Online SC 886]** & **Pramod Suryabhan Pawar Vs. State of Maharashtra and Another [2019 SCC OnLine SC 1073]**.

10. While concluding the argument, learned counsel for the petitioners submitted that all six petitioners in the above three cases are in-laws, i.e., the first brother, Shreekant (deceased Nishikant's brother) his wife Indu Bala, and their children Saurabh Suman @ Saurabh Kumar and Komal Sakshi & the second brother Shashikant (deceased Nishikant's brother) and his wife, Anita Devi @ Anita Prasad. They have no fault and were implicated only out of their relation with Nishikant (now deceased). It is submitted that it is a case where marriage was admittedly not solemnized



between the parties, and merely on the basis of oral submission that one of the co-accused subsequently demanded dowry this case was lodged, which appears non-convincing. Therefore, no prima-facie case appears to be made out for the offence punishable under Section 417 of the IPC, hence in view of observations as discussed aforesaid in the **Abhishek case (supra)**, the impugned cognizance order is fit to be quashed/set aside.

11. Heard learned APP for the State.

12. O.P. No. 2 present in person along with her learned counsel. It is pointed out by learned counsel that marriage could not solemnized due to the demand of dowry. However, he could not dispute the fact that O.P. No. 2 made all such steps for the solemnization of her marriage with the deceased brother of petitioner no. 1 namely Shashikant (Cr. Misc. No. 1908 of 2023) & petitioner Shreekant (Cr. Misc. No. 63048 of 2024) and when realizing the past conduct of O.P. No. 2 marriage could not solemnized an allegation under Section 376 of the Cr.P.C. for committing rape was raised against the bride Nishikant (now deceased) and he was sent



to jail and remained there for more than one year, and during the custody period, he developed kidney disease and died in jail. It is pointed out that Nishikant/deceased, also lodged a case against O.P. No. 2, which must be withdrawn or quashed. O.P. No. 2 who is present in person before this Court, approved this fact that she has no objection for quashing of the present criminal proceedings against petitioners, if two criminal cases, i.e., Complaint Case No. 3738/2019 pending before learned A.C.J.M. IVth and Complaint Case No. 600 of 2020 pending before learned JMFC-22 against her be quashed/set aside also.

13. It would be apposite to reproduce para no(s).

13, 14, 15, 16 & 17 of the **Abhishek's case (supra)**, which reads 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.’

14. Considering the aforesaid factual and legal submission, it transpires that petitioners are in-laws facing general and omnibus allegations in the background of the admitted fact that the marriage of O.P. No. 2 never solemnized with the deceased brother of petitioners Shreekant and Shashikant. It also appears that in retaliation petitioners also lodged two criminal cases i.e., Complaint Case No. 3738/2019 pending before learned A.C.J.M. IVth and Complaint Case No. 600 of 2020 pending before learned JMFC-22. The demand of dowry also appears very much general and omnibus *qua* all the above named petitioners, and they appear implicated only out of their relation with the deceased bride, Nishikant, with whom the marriage of O.P. No. 2 was about to be solemnized.

15. In view of the aforesaid factual and legal



submission and also by taking a guiding note of **Abhishek Case (supra)**, the impugned order dated 30.04.2022 passed by learned Additional Sessions Judge-I, Patna in Cr. Rev No. 271 of 2021 along with, the impugned cognizance order dated 19.07.2021 passed by learned Judicial Magistrate 1st Class, Patna, in connection with Mahila P.S. Case No. 158 of 2018 *qua* all above named petitioners in aforesaid Cr. Misc. Cases i.e., **Cr. Misc. No. 1682 of 2023, Cr. Misc. No. 1908 of 2023 & Cr. Misc. No. 63048 of 2024** are hereby set-aside and quashed.

16. Accordingly, all above three mentioned quashing petitions stand allowed.

17. Taking note of the submission as advanced by O.P. No. 2 and learned counsel for petitioners, the two cases as lodged by petitioners and their relative against O.P. No. 2 i.e., Complaint Case No. 3738/2019 pending before learned A.C.J.M. IVth and Complaint Case No. 600 of 2020 pending before learned JMFC-22 is also hereby quashed/set aside to secure the ends of justice by exercising the power under Section 482 of the Cr.P.C.



18. Let a copy of this judgment be sent to the all
concerned trial courts forthwith, as indicated aforesaid.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	19.07.2025
Transmission Date	19.07.2025

