

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.60470 of 2023**

Arising Out of PS. Case No.-415 Year-2022 Thana- MADHUBANI COMPLAINT CASE  
District- Madhubani

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1. Badrun Duja @ Jugnu @ Bahar @ Badruddoza, son of Late Abdul Hasib
  2. Afroza Khatoon, wife of Late Abdul Hasib
  3. Nurul Saba @ Mosam, D/o- Late Abdul Hasib
- All are resident of Village- Parsaini, P.S.- Bisfi, Dist- Madhubani

... .. Petitioners

Versus

1. The State of Bihar
2. Madina Firdaush Sheikh, wife of Baddruja @ Jugnu, D/o- Baksi Gulan Sheikh, resident of Village- Parsauni, P.S.- Bisfi (Pautana), Dist- Madhubani

... .. Opposite Parties

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**Appearance :**

|                          |   |                               |
|--------------------------|---|-------------------------------|
| For the Petitioner/s     | : | Md. Helal Ahmad, Advocate     |
| For the Opposite Party/s | : | Mr. Mithlesh Kumar Khare, APP |
| For the O.P. No.2        | : | Mr. Kuldeep Kumar, Advocate   |

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL JUDGMENT**

**Date : 15-02-2025**

Heard learned counsel for the petitioners, learned  
APP for the State and learned counsel appearing on behalf of  
of O.P. No.2

2. The present application has been filed by the  
petitioners for quashing of order taking cognizance dated  
15.12.2022 passed by learned Judicial Magistrate-1st Class,  
Benipatti in Complaint C.R. No.415 of 2022 dated  
17.10.2022, whereby the learned trial court has taken  
cognizance against the petitioners for the offences punishable



under Sections 498-A, 323 and 506 read with 34 of the Indian Penal Code (in short 'IPC').

3. The brief facts of the case is that the informant got married to the petitioner No.1 Badrun Duja in the year 2017. At the time of beginning of marriage, the accused persons including petitioners told her to bring two lakh rupees from her parents as dowry. When she expressed her inability to fulfill their demand, they subjected the informant to cruelty in different ways and she was also threatened to kill her. It is further alleged that on 28.01.2022 at about 8:00 P.M., accused persons assaulted the informant and confined her in a room and attempted to kill her by sprinkling kerosene oil. On hearing alarm raised by her, nearby people gathered over there and saved the informant.

4. It is submitted by learned counsel appearing for the petitioners that the matter appears settled between the parties in terms of Mediation Proceeding No.1239 of 2023 arising out of Cr. Misc. No. 58387 of 2023 and in furtherance of the same, an agreement was drawn on 05.02.2024 between the parties deciding terms and conditions of



compromise. It is submitted that in furtherance of said compromise, the petitioner No.1/husband of O.P. No.2 paid Rs.7,00,000/- (Rupees Seven Lakhs) as one-time settlement *qua* maintenance amount to opposite party no.2, namely Madina Firdaush Sheikh, which was credited to her bank account No.20429977809 of SBI, Chittakula (Sadashivgad). The mediation agreement was also brought on record through supplementary affidavit.

5. Mr. Kuldeep Kumar, learned counsel appearing for opposite party no.2 has also approved the factum of compromise between the parties.

6. It would be apposite to re-produce the settlement terms as drawn by Patna High Court Mediation Centre, which is as under :-

**"Patna High Court Mediation Centre**

**Memorandum of Agreement**

**Mediation Proceeding No.1239 of 2023**

**[Arising out of Cr. Misc. No.58387 of 2023]**

**An agreement made on 05.02.2024 at the High Court Patna Mediation Centre, between, Badrun Duja @ Jugnu Bahar @ Badruddoza, Son of Late Abdul Hasib, resident of Village-Parsaini, P.S.-Bišfi, District-Madhubani.**

**... .. Petitioner/(First party).**



**And**

**Madina Firdaush Sheikh, wife of Baddruja @  
Jugnu, D/o Baksi Gulan Sheikh, resident of  
Village-Parsauni, P.S.-Bisfi (Pautana), District-  
Madhubani.**

**--- Opposite Party No.2/(Second  
party).**

**Both the parties appeared in the Mediation  
Proceeding along with their Advocates and  
ready to resolve the dispute through the  
Mediation Proceeding on the following terms  
and conditions:-**

- 1. That after great persuasion both the parties  
agreed to live separately and for this the  
petitioner offered to pay Rs.7,00,000/-  
(Rupees Seven Lakh Only) as full and final one  
time settlement amount to the Opposite party  
No.2 (Madina Firdaush Sheikh). Opposite party  
No.2 accepted the offer and gave her consent.**
- 2. That both the parties agreed that the  
aforesaid amount shall be paid in five equal  
instalments in five months w.e.f. today. The  
payment shall be through RTGS/NEFT issued  
on the name of opposite party No.2 namely  
Madina Firdaush Sheikh in the Bank account  
number 20429977809, IFSC Chittakula  
(Sadashivgad). Code-SBIN0007905, State  
Bank, Chittakula (Sadashivgad).**
- 3. This settlement shall be full and final  
settlement and no party shall claim any  
maintenance or articles in future against each**



other, in any manner.

4. That both the parties agreed to file mutual consent as per Muslim Law and after that both the parties are free to lead their life as per their own will.

5. That both the parties agreed that any case filed against each other shall be withdrawn by each of the party.

6. That the above contents of the agreement have been read over and explained to us in Hindi which are have fully understood and accepted there upon.

7. That in the above terms and conditions a settlement has been arrived at between the parties and both have signed in presence of their learned counsels, who have also put their signature on this agreement.

Sd/-

Sd/-

(Badrun Duja @ Jugnu)  
Sheikah)

(Madina Firdaush

Signature of the petitioner  
No.2

Signature of O.P.

Dated-05.02.2024

Dated-05.02.2024

Sd/-

Sd/-

Signature of Advocate for petitioner

Sign. Of advocate

O.P. No.2

A.O.R. No.EN. 5889/95

A.O.R. No.100326

Dated-05.02.2024

Dated-05.02.2024

“

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 and legal submissions and by taking note of fact as matter appears settled/compromised between the parties, where opposite



party no.2/wife has received Rs.7,00,000/- as one time settlement in her bank account and they also obtained the decree of divorce, accordingly, continuing with present proceeding before learned trial court would only amount to abuse of the process of court of law.

9. Accordingly, the impugned order taking cognizance dated 15.12.2022 passed by learned Judicial Magistrate-1st Class, Benipatti in Complaint C.R. No.415 of 2022 with all its consequential proceedings is, hereby, quashed and set aside *qua* petitioners.

10. The application stand allowed.

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

(Chandra Shekhar Jha, J.)

Sanjeet/-

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|-------------------|------------|
| AFR/NAFR          | AFR        |
| CAV DATE          | NA         |
| Uploading Date    | 27-02-2025 |
| Transmission Date | 27-02-2025 |

