

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61669 of 2024

Arising Out of PS. Case No.-34 Year-2024 Thana- MAHILA P.S. District- Sitamarhi

1. Prabha Pathak @ Prabha Devi Wife of Late Bhawanand Pathak R/o Village- Choraut Uttari, Ward No.1, P.S.- Choraut, District- Sitamarhi
2. Priya Kumari @ Priya Devi D/o Late Bhawanand Pathak, W/o Sujit Kumar Pathak R/o Village- Choraut Uttari, Ward No.1, P.S.- Choraut, District- Sitamarhi
3. Priti @ Priti Jha @ Priti Devi D/o Late Bhawanand Pathak, W/o Vipin Jha R/o Village- Choraut Uttari, Ward No.1, P.S.- Choraut, District- Sitamarhi. Presently Residing at B-5/52, Sector-5, Rohini, P.S.- Buddha Bihar, District- North West, Delhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. Priyanka Kumari Wife of Prabhat Pathak, D/o Gopal Krishna Thakur Presently residing at Village- Gharharawa, P.S.- Parihar, District- Sitamarhi

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Garg, Adv
For the Opposite Party/s : Mr. Harendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

3 23-07-2025 Heard learned counsel for the petitioners and learned
APP for the State.

2. Despite notice being issued to the O.P. No. 2 under both modes and the same being received personally by the O.P. No. 2 as per the service report no one appears on behalf of the O.P. No. 2.

3. The present application has been preferred by the petitioners for quashing of the FIR bearing Sitamarhi Mahila P.S Case No. 34 of 2024 (GR No. 1917 of 2024) registered for



offences under Sections 498 (A), 341, 323, 504, 406, 506/34 of the I.P.C.

4. The prosecution, in brief, is that the informant/ O.P. No. 2 solemnized marriage with Prabhat Pathak on 26.05.2013 and the second marriage (*duragman*) of the informant was solemnized in March, 2014. It is alleged that the husband of the informant abused and snatched away the ornaments, clothes and certificates and forcefully sent the O.P. No. 2 to her parents home. It is further alleged that the husband of the informant never came to the house of the informant and always used to abused her on phone and it was finally alleged that the named accuse persons including the present petitioners were demanding Rs. 15,00,000/- and hence, the present FIR has been lodged.

5. Learned counsel for the petitioners submits that the Petitioner No. 1 is the mother-in-law while the Petitioner Nos. 2 and 3 are the married Sister-in-law (*nanad*) of the informant/ O.P. No. 2, are living separately at their respective homes away from that of her brother. It is further submitted by the learned counsel for the petitioners that the petitioners have falsely been implicated in this case and from mere perusal of the FIR it would be evident that the allegations levelled against the



petitioners are of general and omnibus in nature and nothing specific has been alleged against the petitioners. He further submits that there is no specific allegation of demand of dowry or torture levelled against the petitioners in order to draw any of the offences mentioned in the FIR.

6. Learned counsel for the petitioners next submits that the informant had left her matrimonial home in the year 2021 on her own as she was not staying happily with the petitioners and the allegation made in the FIR are all concocted and in order to substantiate his submissions, he draws the attention of this Court towards Annexure-P/2 wherein the informant had uploaded her profile in a matrimonial website stating herself to be a divorcee admitting that she has one child, however, also stating that she is not living together with her husband. Learned counsel for the petitioners also submits that from perusal of the Annexure- P/3, it would be evident from the messages which was shared between the informant and her daughter where she had been asking her daughter to talk to her husband/father of her daughter to sign on the divorce paper and she has also asked that if the daughter permits, she would also solemnize marriage. Learned counsel for the petitioners further submits that all these conversations, *whatsapp chat* and the



messages were prior to lodging of the F.I.R., which would go on to show that she was also having an affair and was adamant to solemnize marriage with another person and only because the petitioners and her husband were not adhering to her request to give her divorce with mutual consent, the present case has been lodged to wreak vengeance.

7. Learned counsel for the petitioners thus submits that the petitioners being the in-laws of the informant have been implicated in the present case in order to coerce the husband of the informant to concede to her demands. He further submits that the present criminal proceeding against the petitioners are baseless and would constitute an abuse of the process of law especially for the fact that there is no specific allegation against the petitioners.

8. This Court has perused the materials available on record especially the Annexures-P/2 and P/3 which speaks about the conduct of the informant prior to the lodging of the present FIR and from perusal of the contents of the FIR it is clear that the allegations against the petitioners who are mother-in-law and sisters-in-law respectively were largely general and there was nothing specific against them. The informant has not given any concrete details of dowry demands or acts of cruelty



attributable to the petitioners and the separate residence of Petitioner Nos. 2 and 3 further demolish the allegations levelled by the informant against them and therefore in absence of *prima facie* evidence to establish their involvement in the alleged offences of torture and demand of any amount, the proceedings against the mother-in-law and the sisters-in-law cannot be sustained.

9. It is a well settled law that criminal proceedings should not be used as a tool for harassment or vendetta and the allegations in a criminal complaint should be such that it discloses a *prima facie* case which would then subject the individual to the rigors of a criminal trial. This Court is aware of the fact that the provisions of Section 498-A of the IPC are intended to protect women from cruelty and harassment, they should not be used to settle personal scores or pursue ulterior motives.

10. It would be apt to reproduce paragraph nos. 13, 14, 15, 16 & 17 of the judicial pronouncement of the Hon'ble Supreme Court in the case of **Abhishek Vs. State of Madhya Pradesh** reported in **2023 SCC OnLine SC 1083**, 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 inlaws 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 inlaws 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.”

11. In view of the aforesaid legal and factual submissions and also taking note of the fact that the allegations against the petitioners are devoid of any merit, manifestly frivolous and fails to disclose a *prima facie* case, the continuation of criminal proceeding in such circumstances



would amount to an abuse of the process of law and would result in a miscarriage of justice.

12. Accordingly, the F.I.R., bearing Sitamarhi Mahila P.S. Case No. 34 of 2024 (GR No. 1917 of 2024) qua the above named petitioners is hereby quashed.

13. The present quashing application stands allowed.

(Sourendra Pandey, J)

Jyoti/-

U		T	
---	--	---	--

