

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.1277 of 2022**

Arising Out of PS. Case No.-312 Year-2022 Thana- PIRPAINTI District- Bhagalpur

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1. BHUNESHWARI DEVI @ BHUVNESHWARI DEVI W/o Late Janak Bharti R/o Village- Gurua, P.S.- Gurua, Distt- Gaya.
  2. Vijay Bharti S/o Late Janak Bharti R/o Village- Gurua, P.S.- Gurua, Distt- Gaya.
  3. Usha Giri W/o Chunnilal Giri R/o Sri Ram Vatika, Dhैया, P.S.- Dhanbad, Distt- Dhanbad.
  4. Chunnilal Giri S/o Late Pannalal Giri R/o Sri Ram Vatika, Dhैया, P.S.- Dhanbad, Distt- Dhanbad.
  5. Shobha Devi @ Shobha Puri W/o Vishwamitra Puri R/o Raghunathpur Mathia, P.S.- Vikram, Distt- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Government of Bihar, Patna Bihar
2. The Director General of Police, Bihar, Patna Bihar
3. The Superintendent of Police, Bhagalpur Bihar
4. The Dub Divisional Police Officer, Kahalgaon Bihar
5. The Station House Officer, Pirpainti, Bhagalpur Bihar
6. Anjana Soni W/o Vijay Bharti and D/o Late Deo Narayan Mishra Resident of H/o Sikander Singh, Surabhi Path, Near Shiv Mandir, New Jakkanpur, P.S.- Gardanibagh, Distt- Patna.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s       | : | Ms. Soni Srivastava, Advocate<br>Mr. Ravi Bhardwaj, Advocate<br>Mr. Gaurav Singh, Advocate                                                 |
| For the Respondent/s       | : | Mr. Sheo Shankar Prasad, SC 8<br>Mr. Anil Kumar, AC to SC 8<br>Mr. Sanjay Kumar, AC to SC 8                                                |
| For the Respondent no. 6 : |   | Mr. Pushkar Narain Shahi, Sr. Advocate<br>Mr. Praveen Kumar, Advocate<br>Mr. Ravi Prakash Dwivedi, Advocate<br>Mr. Raushan Kumar, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI**  
**ORAL JUDGMENT**

**Date : 06-02-2025**

The petitioners are the accused persons in connection



with Pirpanti P.S. Case No. 312 of 2022 dated 21.09.2022 registered for the offences under Sections 341, 323, 498A, 307, 120B, 504, 506/34 of the Indian Penal Code.

2. The informant/respondent No. 6 is the legally wedded wife of the petitioner No. 2. Their marriage was solemnized on 29.05.1996 according to Hindu rites and ceremonies in Bhagalpur. After marriage, she went to her matrimonial home at Gaya and then shifted to Patna, where her husband has been working as an Advocate of Patna High Court. In the wedlock between the parties, the respondent No. 6 gave birth to one daughter and one son, who are now aged about 16 years and 10 years respectively.

3. It is alleged by the informant that her husband is addicted to alcohol and under the influence of alcohol, he used to misbehave with her. He often threatened her with dire consequences and made her afraid by opening fire in air from his licensed gun. The husband of the informant used to assault her physically. He also mixed intoxicated drugs in a glass of milk and compelled his wife to consume the said milk forcibly. The informant narrated the said incidents to her maternal uncle, however; to save her marriage and to protect her family's prestige, she ignored all those acts of cruelties. The informant



also informed about the said incidents to her sister-in-law (petitioner no. 3), brother-in-law (petitioner no. 4) and mother-in-law (petitioner no. 1) that her husband demanded a sum of Rs. 25,00,000/- (Rupees Twenty Five Lakhs only) to be brought from her maternal uncle for the purpose of purchasing a flat in the name of her husband. Her maternal uncle failed to pay the said money and thereafter, the husband of the informant increased the level of cruelty upon his wife. It is also alleged that her husband has illicit affairs with one Shobha Puri. At this, the husband of the informant told petitioner no. 1, 3 and 4 to take informant to his ancestral house at Gaya failing which he would kill her. The petitioners no. 1, 3 and 4 brought the informant to Gaya. The petitioner no. 1 again informed the maternal uncle of the informant to give the informant's husband a sum of Rs. 25,00,000/- as per his demand. When he expressed his inability, petitioners no. 1 and 3 told her maternal uncle to take the informant back to his house. The informant was taken to the house of her maternal uncle along with her children. Subsequently, the maternal uncle of the informant was compelled to pay a sum of Rs. 25,00,000/- to the husband of the informant after selling one-third shares of the paternal property of the informant. In this way, the informant was subjected to



cruelty on illegal demand of dowry.

4. On the basis of the said FIR, Pirpanti PS Case No. 312 of 2022 dated 21<sup>st</sup> September 2022, was registered against the petitioners.

5. It is already stated that the petitioner no. 1 is the mother-in-law, petitioner no. 2 is the husband, petitioner no. 3 and 4 are sister-in-law and elder brother-in-law respectively of the informant and petitioner no. 5 is a distant matrimonial relation, who stays at Raghunathpur Mathia within Police Station Vikram in the District of Patna. It is submitted on behalf of the petitioners that they are innocent, they did not commit any offence and they have been falsely implicated in the present case which is evident from the FIR. All the family members of the petitioner no. 2 were wrongly implicated in a criminal case on the basis of vague and omnibus allegation.

6. Ms. Soni Srivastava, learned counsel for the petitioners submits that the FIR was filed on 21<sup>st</sup> September 2022 and police after investigation filed charge-sheet against the petitioners for all the offences as alleged except the offence under Section 307 of the IPC. The trial court also took cognizance of offence. In the instant writ petition, an interlocutory application has been filed challenging the order of



cognizance with a prayer to quash and set-aside the charge-sheet and the cognizance order respectively on the following grounds: -

(i) It is submitted by the learned Advocate for the petitioners that marriage of the petitioner no. 2 was solemnized with the informant on 29<sup>th</sup> May 1996. The husband of the informant (petitioner no. 2) made two informatory petitions before the learned Chief Judicial Magistrate, Patna on 11<sup>th</sup> February 2020 and subsequently, in the same year bearing no. 4039/2020 alleging the facts of torture and cruelty perpetrated upon him by his wife and her relatives. He also made application under Section 39 of the CrPC on 30<sup>th</sup> March 2022.

(ii) Subsequently, the petitioner no. 2 was compelled to file a suit for divorce against his wife on the ground of physical and mental cruelty. It is alleged that the relation between the husband and wife became strained due to the interference and indulgence by the maternal uncle of the informant.

7. It is also stated by the learned Advocate appearing on behalf of the petitioners that the petitioner no. 2 filed a complaint case bearing no. 420 of 2022 against the informant and others before the learned SDJM, Sherghati, Gaya



of which the learning SDJM took cognizance of offence vide an order dated 16<sup>th</sup> August 2022. Only after filing the divorce case and the criminal case against the informant/respondent no. 6, an FIR under section 498A and other cognate panel provisions were made by the respondent no. 6 against the petitioners on 21<sup>st</sup> September 2022.

8. Learned Advocate appearing on behalf of the petitioners submits that the FIR made by the respondent no. 6 against the petitioners is full of absurdity, inherently improbable, vague and omnibus. The FIR challenged in the instant petition is an outcome as a retaliatory measure against the matrimonial suit filed by the petitioner no. 2 against the respondent no. 6. It is further submitted by Ms. Soni Srivastava, learned counsel for the petitioners, that there is no specific allegation against petitioner. no. 1 and petitioners no. 3-5. The informant failed to state any date of alleged occurrence of cruelty and torture perpetrated upon her. Referring to a decision of the Hon'ble Supreme Court in the case of *Achin Gupta Vs. State of Haryana and Anr.* reported in (2024) SCC OnLine SC 759, it is submitted by Ms. Soni Srivastava that the plain reading of the FIR and Charge-sheet papers indicate that the allegation levelled by the informant are quite vague, general and



sweeping, specifying no instances of criminal conduct. It is also pertinent to note that in the FIR, no specific date or time of the alleged offence has been disclosed. The investigating officer did not find any allegation under Section 307 of the IPC and dropped the said charge while submitting charge-sheet. Therefore, relying on Hon'ble Supreme Court's decision, the learned Advocate appearing on behalf of the petitioners submits that the FIR lodged by the respondent no. 6 was nothing but a counterblast to the divorce petition and the complaint case filed by the petitioner no. 2 against his wife. Paragraph 21 and 22 of the decision of the Hon'ble Supreme Court in ***Achin Gupta*** (Supra) are relevant and quoted below: -

*“21. The investigation of an offence is the field exclusively reserved for the Police Officers, whose powers in that field are unfettered, so long as the power to investigate into the cognizable offence is legitimately exercised in strict compliance with the provisions under Chapter XII of the Cr. P.C.. While exercising powers under Section 482 of the Cr. P.C., the court does not function as a Court of appeal or revision. As noted above, the inherent jurisdiction under the Section, although wide, yet should be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself. It is to be exercised ex*



*debito justitiae to do real and substantial justice for the administration of which alone courts exist. The authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has the power to prevent such abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers, the court would be justified to quash any proceeding if it finds that the initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.*

*22. Once the investigation is over and chargesheet is filed, the FIR pales into insignificance. The court, thereafter, owes a duty to look into all the materials collected by the investigating agency in the form of chargesheet. There is nothing in the words of Section 482 of the Cr. P.C. which restricts the exercise of the power of the court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It would be a travesty of justice to hold that the proceedings initiated*



*against a person can be interfered with at the stage of FIR but not if it has materialized into a chargesheet.”*

9. The learned Advocate appearing on behalf of the petitioners next refers to another decision of the Hon’ble Supreme Court in the case ***of Kahkashan Kausar and Ors. Vs. State of Bihar and Ors.*** reported in ***(2022) 6 SCC 599***. In the aforesaid mentioned reported decision, the husband of the informant and appellant before the Hon’ble Supreme Court filed a criminal writ petition before this Court for quashing the FIR dated 1<sup>st</sup> April 2019 which was dismissed by this Court. The High Court observed that the averments made in the FIR, *prima facie* disclosed commission of offence and, therefore, the matter was required to be investigated by the police. The appellants being the niece, mother-in-law, sister-in-law and brother-in-law approached the Hon’ble Supreme Court by filing the Special Leave Petition, challenging the order passed by this Court. The Hon’ble Supreme Court in paragraph 12 of the said judgment refers to the observation made in ***Rajesh Sharma and Ors. Vs. The State of U.P. and Anr.*** [reported in ***(2018) 10 SCC 472***] as hereunder: -

*“14. Section 498-A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife*



*particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the Statement of Objects and Reasons of Act 46 of 1983. The expression “cruelty” in Section 498-A covers conduct which may drive the women to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. [ Explanation to Section 498-A.] It is a matter of serious concern that large number of cases continue to be filed under Section 498-A alleging harassment of married women. We have already referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualised. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement.”*

10. Subsequently, Hon’ble Supreme Court held in its paragraphs no. 13 to 18 of **Kahkashan Kausar and Ors.** (Supra) as under: -

*“13. Previously, in the landmark judgment of this Court in **Arnesh Kumar v. State of Bihar and Anr.**, it was observed:*



4. *There is a phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A Indian Penal Code was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A Indian Penal Code is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grandfathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested.*

**14. Further in Preeti Gupta v. State of Jharkhand** [Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667 : (2010) 3 SCC (Cri) 473] , it has also been observed : (SCC pp. 676-77, paras 32-36)

*“32. It is a matter of common experience that most of these complaints under Section 498-AIPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.*



33. *The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.*

34. *Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.*

35. *The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of*



*implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. 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. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection.*

*36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful.”*

**15. In Geeta**

**Mehrotra v. State of U.P.** [Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741 : (2013) 1 SCC (Civ) 212 : (2013) 1 SCC (Cri) 120] it was observed : (SCC p. 749, para 21)

*“21. It would be relevant at this stage to take note of an apt*



*observation of this Court recorded in G.V. Rao v. L.H.V. Prasad [G.V. Rao v. L.H.V. Prasad, (2000) 3 SCC 693 : 2000 SCC (Cri) 733] wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that: (SCC p. 698, para 12)*

*‘12. ... there has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their cases in different courts.’*



*The view taken by the Judges in this matter was that the courts would not encourage such disputes.”*

**16. Recently, in K. Subba Rao v. State of Telangana** [K. Subba Rao v. State of Telangana, (2018) 14 SCC 452 : (2019) 1 SCC (Cri) 605] , it was also observed that : (SCC p. 454, para 6)

*“6. ... The courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out.”*

**17. The** abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.



*18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that “all accused harassed her mentally and threatened her of terminating her pregnancy”. Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.”*

11. The learned Advocate appearing on behalf of the respondent no. 6, on the other hand, has placed the contents of the FIR. It is submitted by him that the marriage of the informant was arranged by her maternal uncle, Vibhuti Prasad Goswami with the petitioner no. 2. The petitioner no. 2 is a practicing advocate of Patna High Court. After marriage, the



parties were blessed with two children who are aged about 16 years and 10 years on the date of filing of the complaint. It is alleged by the informant that her husband subsequently started to mix with bad associations and addicted to alcohol. When the informant requested him to leave such addiction, he abused her. He also threatened her to kill by firing. He regularly used to assault the informant, i.e., his wife. He used to mix some intoxicated drugs in the milk of the informant to cause her physical illness. She informed the matter to her maternal uncle but he consoled her. She also informed the incidents to her mother-in-law, brother-in-law and sister-in-law who took her with them to his ancestral house. Petitioner no. 3 advised her to tell her maternal uncle to pay Rs. 25,00,000/- to her husband. The other accused persons also persuaded her to pay the said amount. Her husband told that if the informant wanted to live at her matrimonial home, she would have to bring money from her maternal uncle.

12. Thus, it is submitted by the learned Advocate for the respondent no. 6 that the statement made by the informant contains an allegation that her husband demanded huge dowry of Rs. 25,00,000/- from her maternal uncle and on her failure to do so, she was subjected to cruelty.



13. Having heard the learned counsels for the parties and on careful perusal of the entire materials on record, specially the FIR, it is found that the informant failed to state any date of occurrence when her husband demanded money. The marriage between the petitioner no. 2 and respondent no. 6 lasted for 25 years. They have two children who are aged about 16 years and 10 years now. They are being maintained by their father. Prior to 16<sup>th</sup> August 2022, the respondent no. 6 did not make any allegation against the petitioners about illegal demands of money. No information was filed before the Court of the learned Magistrate or the police authority about such incidents. The allegations made against the petitioners no. 1, 3, 4 and 5 are absolutely vague and omnibus. The petitioner no. 1 is now aged about 84 years, she is suffering from various ailments, it is not physically possible for her to treat the respondent no. 6 with cruelty. There is absolutely no allegation against petitioner no. 4, Chunnilal Giri and petitioner no. 5, namely, Shobha Devi @ Sobha Puri. In the FIR, it is alleged that when petitioners no. 1, 3, and 4 (in the instant writ petition) came to Patna to resolve the matrimonial dispute between the parties, petitioner no. 3 advised the informant to concede to the demand of her husband (petitioner no. 2, herein) to fetch a



peaceful family life. This advice acceding the claim of the husband may not be proper but such an advice cannot be treated as cruelty under the facts and circumstances of the case, when it was told. It is stated in the FIR itself that seeing the petitioners, respondent no. 6 started to cry relentlessly. Under such circumstances, petitioner no. 3 might have made certain remark to bring peace in the family of petitioner no. 2 and respondent no. 6. In the considered view of this Court, such statement is not a demand for illegal dowry or cruelty perpetrated by them in the instant case.

14. It is contended on behalf of the respondent no. 6 that in the meantime, the investigating officer has also filed charge-sheet and cognizance has been taken. At this state, FIR does not have any bearing in the criminal case and by quashing the FIR, criminal case cannot be quashed.

15. In reply to the said submission, Ms. Soni Srivastava, learned counsel for the petitioners, refers to paragraph 22 of the decision of the Hon'ble Supreme Court in *Achin Gupta* (supra) when charge-sheet is filed, off-course, the FIR pales into a no sequence. However, the Court under Article 226 or Section 482 of the CrPC holds responsibility to look into all the materials collected by the investigating agency in the



form of charge-sheet. There is no restriction in the exercise of power under Article 226 of the Constitution to consider whether a perfunctory charge-sheet has been filed against the petitioners which would ultimately lead to miscarriage of justice. The Hon'ble Supreme Court clearly held;- "It would be a travesty of justice to held that the proceedings instituted against a person can be interfered at the stage of FIR but not if it has materialized into charge-sheet."

16. On careful perusal of the materials on record, this Court finds that the investigating officer failed to collect any legal evidence, which on appreciation may support the accusation. If a person is made to face a criminal trial on some general and sweeping allegation without bringing on record any specific instance of criminal conduct, it is nothing but abuse of the process of the Court. The Court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, *prima facie* whether there is any grain of truth in the allegations or whether they are made only on the sole object of involving certain individuals in criminal charge, more particularly, when a prosecution arises from a marital dispute.

17. In the instant case, continuation of the



proceeding against petitioners no. 1, 3, 4 and 5 will be abuse of the process of Court. Therefore, this Court is of the opinion that the criminal charge-sheet in Pirpainti P.S. Case No 312 of 2022 under Sections 341/323/498(A)/120(B)/504/506 and 34 of the Indian Penal Code and order of cognizance dated 18.03.2024 is liable to be quashed. However, the materials on record, mainly, the applications filed by the petitioner no. 2 for institution of suit of divorce and subsequent complaint of cruelty on demand of a sum of Rs. 25,00,000/- by the respondent no. 6 shall continue against the petitioner no. 2.

18. With the above order, the instant writ petition is disposed of.

**(Bibek Chaudhuri, J)**

Suraj Dubey/-

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