

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70428 of 2025

Arising Out of PS. Case No.-49 Year-2023 Thana- COMPLAINT CASE -
MUZAFFARPUR(WEST) District- Muzaffarpur

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Sehra Khatoon W/O Jamil Ahmad @ Jamin Ahmad, D/O Mugal Ansari R/O
Village- Khantari Mahanad, P.S- Baruraj, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Gulshan Khatoon W/O Jamil Ahmad R/O Village- Khantari Mahanand, P.S-
Baruraj, Distt.- Muzaffarpur. Present Address- D/O Mohammad Ali, R/O
Village- Nayatola Gijas, P.S- Saraiya, Distt.- Muzaffarpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Upendra Kumar Chaubey, Advocate.

For the Opposite Party/s : Mr.Bhanu Pratap Singh, APP.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 17-11-2025

Heard learned counsel appearing on behalf of the
petitioner and learned APP for the State.

2. As prayed for, learned counsel appearing on
behalf of the petitioner is permitted to implead the husband of
the opposite party no.2 (Jamil Ahmad) as opposite party no.3, in
course of the day.

3. The petitioner has preferred the application
under Section 528 of the BNSS, 2023 for quashing of the order
taking cognizance dated 27.06.2023 in connection with



Complaint Case No.49 of 2023, whereby cognizance has been taken by the learned Judicial Magistrate 1st Class, Court No.5, Muzaffarpur under Sections 406 and 498A of the Indian Penal Code against the petitioner and her husband namely Jamil Ahmad.

4. The prosecution story, in brief, is that the complainant, Gulshan Khatoon, was married to Jamil Ahmad about 27 years ago according to Muslim customs and rites. It is alleged that soon after the marriage, accused persons subjected her to continuous torture and ill-treatment, as a result of which she remained issueless. The cruelty allegedly escalated over time, and eventually her husband contracted a second marriage, though the complainant continued to reside in her matrimonial home. It is further alleged that on 10.10.2022, all the accused persons, pursuant to a common plan, assaulted her and attempted to kill her by strangulation, but she was saved upon raising alarm. Thereafter, she was allegedly driven out of her matrimonial home. A Panchayati was convened, but the accused persons refused to take her back. The complaint also encloses medical prescriptions relating to her treatment.

5. Learned counsel appearing on behalf of the petitioner submitted that the complainant (opposite party no.2)



is the first wife of the opposite party no.3 Jamil Ahmad and petitioner is the second wife of the opposite party no.3. The petitioner out of marriage with the opposite party no.3 has been blessed with three children, two sons aged about 12 years and 14 years and one daughter aged about 7 years and the complainant (opposite party no.2) could not get blessed with any child leading the opposite party no.3 to marry with the petitioner. Learned counsel submitted that the opposite party no.3 is working in foreign country and he is taking due care of the children and the petitioner, however, due to acrimonious and strained relationship between the opposite party no.2 and the petitioner, petitioner is facing criminal prosecution on the basis of the complaint lodged by the opposite party no.2, even though second marriage is permissible in Islam. The reason assigned in the complaint that the dispute has arisen because O.P. No.3 has helped the parent of O.P. No.2 is false and baseless. Learned counsel further submitted that the petitioner is ready to live along with the O.P. No.2 and maintain harmony in the family.

6. Learned APP for the State submitted that opportunity may be given to the parties to reconcile their dispute amicably, as the offence is not against the society and the court need not encourage such dispute.



7. Heard the parties.

8. Both the complainant (opposite party no.2) and the petitioner are the wives of the opposite party no.3 Jamil Ahmad. The petitioner has been blessed with three children and opposite party no.2 could not bear a child. Any monetary help which the opposite party no.3 has rendered to the father of the opposite party no.2 is out of love and affection and the fight between the two wives of the opposite party no.3 for the said reason can be given up.

9. At this stage, learned counsel appearing on behalf of the petitioner submitted that he will advise his client that she may persuade the opposite party no.2 to enter into compromise and file a joint compromise petition before the learned District Court. In such circumstances, they can take help of the intervention of family and friends, as well as, well wishers.

10. In the facts of the present case, I find it to refer the observations made by the Apex Court in paragraph nos. 12 and 13 in the case of **B.S. Joshi v. State of Haryana**, reported in, **(2003) 4 SCC 675**, which is reproduced hereinafter:

“ 12. The special features in such matrimonial matters are evident. It becomes the duty of the court to encourage genuine settlements of matrimonial disputes.

*13. The observations made by this Court, though in a slightly different context, in **G.V. Rao v. L.H.V. Prasad***



[(2000) 3 SCC 693 : 2000 SCC (Cri) 733]
are very apt for determining the approach required to be kept in view in a matrimonial dispute by the courts. It was said that there has been an outburst of matrimonial disputes 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.

11. In the present case, the petitioner has shown her desire to settle the dispute outside the Court instead of fighting it out in the court.

12. It is expected that the opposite party no.3 may also come back to India and show his willingness to pacify the strained relationship between his two wives.

13. In case of failure on the part of the petitioner and the opposite party no.2, the matter can be referred for mediation by the learned District Court before the District Mediation Centre by summoning the opposite party nos. 2 and



3, so that they can resolve their dispute amicably and live together happily along with their husband.

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

15. 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.

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

17. In case, it is deliberate on the part of the petitioner and she fails to reconcile, then in that case, the learned District Court shall proceed with the trial. In case, it is deliberate on the part of the opposite party nos.2 and 3 to reconcile, then in that case, the interim protection granted to the petitioner shall continue and the trial shall proceed in accordance with law.

18. Accordingly, the present quashing application



stands disposed of.

(Purnendu Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.11.2025
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