

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73717 of 2024

Arising Out of PS. Case No.-675 Year-2021 Thana- SONEPUR District- Saran

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1. Abhinash Prasad Ray @ Abinash Prasad Ray @ Abhinash Ray S/O Umesh Prasad Ray @ Umesh Pd. Ray R/O Village- Panapur, P.S- Bidupur, Distt.- Vaishali.
 2. Amarjeet Ray @ Amarjeet Prasad Ray S/O Umesh Prasad Ray @ Umesh Pd. Ray R/O Village- Panapur, P.S- Bidupur, Distt.- Vaishali.
 3. Sanju Devi W/O Umesh Prasad Ray @ Umesh Pd. Ray R/O Village- Panapur, P.S- Bidupur, Distt.- Vaishali.
 4. Umesh Prasad Ray @ Umesh Pd. Ray S/O Late Jhagru Ray R/O Village- Panapur, P.S- Bidupur, Distt.- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nidhi Kumari W/O Abhinash Prasad Ray, D/O Akhilesh Kumar R/O Village- Fakrabad, P.S Sonepur, Distt.- Saran (Chhapra), PIN Code- 84101.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nachiketa Jha, Adv.

For the Opposite Party/s : Mr. Dr. Kumar Uday Pratap, Adv.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 25-02-2025

Heard the parties.

2. Present petition for quashing preferred against order dated 20.09.2024, arising out of Sonepur P.S. Case No. 675 of 2021, dated 16.11.2021, under section 498A/34 of the Indian Penal Code as well as Under Section 3/4 of the Dowry Prohibition Act, whereby learned C.J.M. Saran at Chhapra, where learned trial court took cognizance against



the petitioners above named for aforementioned offences.

3. As per prosecution case, O.P. No. 2 namely Nidhi Kumari, gave an application, addressed to the S. H. O. of Sonpur Police Station, alleging precisely therein *inter-alia* that her marriage took place on 09.12.2020 with the petitioner no. 1 namely Abhinash Prasad Ray according to Hindu rituals, where her parents gave sufficient gifts according to their status including a four wheeler. After marriage she went to her *sasural*, where all F.I.R. named accused persons raised a dowry demand of Rs. 14,00,000/- (Fourteen lakh) and asked her to get it from her father, and started torturing. She informed her father, regarding afore raised demand, who came to pacify the matter, thereafter, she went to Bangalore where her husband was employed. She lived there well for some time, thereafter, they again tortured her for the above mentioned demand, her father went there whom they told to fulfill the above mentioned demand and misbehaved with him and, thereafter, petitioners ousted O.P. No. 2 from the House.

4. It appears out of submission and perusal of record that the notice as issued by this Court was received by



the father of the O.P. No. 2 with whom O.P. No. 2 is residing at present after dissolving her marriage with petitioner no. 1. It is submitted by learned counsel that marriage between the parties stands dissolved in terms of provisions available under Section 13(B) of Hindu Marriage Act, 1955, therefore, O.P. No. 2 is no more interested with present prosecution.

5. Considering the aforesaid, it appears to this Court that despite of knowledge of the present proceedings, O.P. No. 2 intentionally failed to appears before this Court in view of compromise.

6. Learned counsel for the petitioner submitted that dispute between the parties appears resolved and, thereafter, in terms of compromise petitioners paid Rs. 17 lakh to O.P. No. 2/ his wife namely Nidhi Kumari, as one time maintenance. It is submitted that the marriage between the parties also appears dissolved in terms of judgment of Matrimonial (Divorce) Case No. 470 of 2023 dated 04.10.2023 as passed by learned Principle Judge, Family Court, Vaishali at Hajipur.

7. It is submitted that in view of aforesaid



compromise, continuing of present proceedings before learned trial court would only amount to abuse the process of Court of law and therefore, same is fit to be quashed and set aside.

8. Learned APP appearing for State supported the factum of compromise in terms of Annexure P-2 series of the present petitions.

9. It would be apposite to reproduce the relevant paragraph nos. 12, 13, 14 ,5, 16 and 17 of ***Abhishek vs. State of Madhya Pradesh*** as reported in ***2023 SCC OnLine SC 1083*** which read as:-

12. The contours of the power to quash criminal proceedings under Section 482 Cr.P.C. are well defined. In V. Ravi Kumar v. State represented by Inspector of Police, District Crime Branch, Salem, Tamil Nadu [(2019) 14 SCC 568], this Court affirmed that where an accused seeks quashing of the FIR, invoking the inherent jurisdiction of the High Court, it is wholly impermissible for the High Court to enter into the factual arena to adjudge the correctness of the allegations in the complaint. In Neeharika Infrastructure (P). Ltd. v. State of Maharashtra [Criminal Appeal No. 330 of 2021, decided on 13.04.2021], a 3-Judge Bench of this Court elaborately considered the scope and extent of the power under Section 482 Cr.P.C. It was observed that the power of quashing should be exercised sparingly, with circumspection and in the rarest of rare cases, such standard not being



confused with the norm formulated in the context of the death penalty. It was further observed that while examining the FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made therein, but if the Court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by this Court in R.P. Kapur v. State of Punjab (AIR 1960 SC 866) and State of Haryana v. Bhajan Lal [(1992) Supp (1) SCC 335], the Court would have jurisdiction to quash the FIR/complaint.

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 Bhajan Lal (supra), 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 informant 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 persons 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 concerned Act (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 concerned Act, 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.”

10. Taking note of aforesaid factual and legal



submissions and further by taking note of the fact as core matrimonial discord surfaced between the parties now appears resolved and as such continuing the present proceedings before the Court below in view of **Abhishek case (supra)** would only amount to abusing the process of Court.

11. Accordingly, impugned order of cognizance dated dated 20.09.2024 passed by learned Chief Judicial Magistrate, Saran at Chhapra, is hereby set aside and quashed *qua* above-named petitioners with all its consequential proceedings.

12. Let copy of this order be sent to the learned trial court, without delay.

(Chandra Shekhar Jha, J)

Sudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.02.2025
Transmission Date	25.02.2025

