

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72739 of 2024

Arising Out of PS. Case No.-211 Year-2022 Thana- JEHANABAD COMPLAINT CASE
District- Jehanabad

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1. Ram Pravesh Pandit S/o- Son of Late Babuchand Pandit, resident of Village-Kurthaul, PS-Parsa Bazar, District-Patna.
 2. Sona Devi Wife of Ram Pravesh Pandit, resident of Village-Kurthaul, PS-Parsa Bazar, District-Patna.
 3. Jyoti Kumari @ Jeevan Jyoti Wife of Vikash Kumar, Daughter of Ram Pravesh Pandit, resident of Village-Kurthaul, PS-Parsa Bazar, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mantu Kumari Wife of Shashikant Nirala, Daughter of Sanjay Pandit, resident of Village-Maniyarganj, PO-Kalanaur, PS-Makhadumpur, District-Jehanabad.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gopal Govind Mishra, Advocate Mr.Amit Kumar, Advocate
For the Opposite Party/s :		Mr.Brajendra Nath Pandey, APP
For the O.P. No.2	:	Mr. Yogendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 14-10-2025 Heard learned counsel appearing on behalf of the petitioners, learned APP for the State and learned counsel for the opposite party no.2.

2. The present application has been filed under Section 482 Cr.P.C. for quashing of the entire proceeding and cognizance order dated 19.10.2022 passed by the learned Sub-Divisional Judicial Magistrate, Jehanabad in complaint case No.211 of 2022 whereby cognizance has been taken under Sections 498A and 323, 34 of the Indian Penal Code and



Section 4 of the Dowry Prohibition Act against the petitioners.

3. The allegation is of subjecting the informant – opposite party no.2 to various sorts of torture due to non-fulfillment of the demand of the dowry.

4. Learned counsel appearing on behalf of the petitioners submitted that petitioners no. 1 and 2 are father-in-law and mother-in-law of O.P. No.2, while the petitioner no.3 is married daughter of petitioners no.1 and 2 and own sister of main accused, Shashikant Nirala, who is the husband of O.P. No.2. Petitioners' counsel contends that petitioners are facing vexatious proceeding and have no concern with the matrimonial relationship between the husband and the wife. He further submitted that opposite party no.2 was married with the son of petitioners no.1 and 2 in the year 2016 and out of wedlock, they were gifted with a son, who is aged about 6 years. He further submitted that petitioner no.1 has retired from the post of Senior Engineer at Kanti Thermal Power and is getting substantial pension. He finds it proper that he will take care of the only son of his son, who is married to opposite party no.2. Learned counsel submitted that because of strained relationship between husband and wife, they have been subjected to face criminal prosecution in spite of the fact that petitioners no.1 and 2 are not



at all concern with any matrimonial dispute between their son and daughter-in-law as they are living separately. The Apex Court recently in case of ***Dara Lakshmi Narayana Vs. State of Telangana*** reported in ***(2025) 3 SCC 735*** has held that family members of the husband should not be unnecessarily roped into criminal proceeding arising out of matrimonial discord between the husband and wife.

5. *Per contra*, Mr. Yogendra Kumar, has tendered his appearance on behalf of opposite party no.2, who is daughter-in-law of petitioners no.1 and 2 and sister-in-law of petitioner no.3. He submitted that from very perusal of the FIR, it is apparent that the petitioners along with husband of opposite party no.2 have subjected the opposite party no.2 with various degree of torture for non-fulfillment of demand of dowry and have also kicked her out from the matrimonial house. The contents of the FIR discloses cognizable offence against the petitioners under Section 323 of IPC and Sections 4 of the Dowry Prohibition Act. In the FIR, the husband of the Opposite party no.2 has also been made accused, therefore, Section 498(A) of Indian Penal Code is applicable to the husband of O.P. no.2 as well.

6. However, at this stage, both the parties agree that



they will go for settlement and find out way and for this, they should be granted interim protection. Petitioners' counsel submitted that the petitioners no.1 and 2 will jointly strive to reconcile the strained matrimonial relationship between their son and daughter-in-law.

7. Learned A.P.P. appearing on behalf of the State submitted that no interference can be made by this Court, considering the allegations made in the FIR. The complicity of the petitioners in subjecting the opposite party no. 2 of various sorts of torture cannot be denied.

8. Heard the parties.

9. The law in respect of matrimonial dispute between husband and wife is well settled at the same time, the Apex Court has held that the family members of husband should not be roped unnecessarily.

10. Recently, the Hon'ble Supreme Court, in the case of ***Mange Ram Vs. State of Madhya Pradesh & Another (Special Leave Petition (Criminal) No.10817 of 2024)*** has found it to be vexatious in nature and has pleased to quash the entire proceeding. I find it gainful to reproduce the paragraphs no. 25, 31 and 32, which, *inter alia* are as follows:

“25. This Court, in ***Dara Lakshmi Narayana vs. State of Telangana, (2025) 3 SCC 735***, has made it clear that family members of the husband ought not to be



unnecessarily roped into criminal proceedings arising out of matrimonial discord. The Court observed that it has become a recurring tendency to implicate every member of the husband's family, irrespective of their role or actual involvement, merely because a dispute has arisen between the spouses. It was further held that where the allegations are bereft of specific particulars, and particularly where the relatives sought to be prosecuted are residing separately or have had no connection with the matrimonial home, allowing the prosecution to proceed would amount to an abuse of the process of law. The Court noted that criminal law is not to be deployed as an instrument of harassment, and that judicial scrutiny must be exercised to guard against such misuse.

31. We also refer to **Gian Singh vs. State of Punjab, (2012) 10 SCC 303** wherein this Court observed that where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled, although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored, securing the ends of justice being the ultimate guiding factor. In this regard, a specific reference was made to offences arising out of matrimony, particularly relating to dowry, etc. or a family dispute, where the wrong is basically to the victim but the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable. The High Court may, within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

32. In **Naushey Ali vs. State of U.P., (2025) 4 SCC 78**, one of us (Viswanathan, J.) observed in paragraph 32 that proceeding with the trial, when the parties have amicably resolved the dispute, would be futile and the ends of justice require that the settlement be given effect to by quashing the proceedings. It would be a grave abuse of process particularly when the dispute is settled and resolved."

11. Recently, the Apex Court has reiterated the same principle in case of **Navneesh Aggarwal & Ors. V. State of**



Haryana and Anr. reported in 2025 INSC 963.

12. Having considered the rival submissions made on behalf of the parties, as well as, having considered the nature of allegation made against the petitioners, I find that the FIR has been lodged as a result of matrimonial discord arises between husband and wife and it has been submitted on behalf of the petitioners as well as opposite party no.2 that such matrimonial discord can be mutually settled. The husband and wife are adult and they can think better for their own interest. Since the parties have jointly submitted that by way of indulgence, the petitioners may be granted interim protection, though this Court was of the opinion that further proceeding against the petitioners will be abuse of process of law, however, at the same time, the interest of the child becomes paramount. In the present case, it has been informed by the parties that daughter-in-law of petitioners no.1 and 2 has been blessed with a male child, aged about six years. The Court has to play role of *parens patriae*. The petitioner no.1 has retired from the post of Engineer-in-Chief. This Court finds that petitioner no. 1 can support the child. He is required to make payment of at least Rs. 25,000/- per month in lumpsum for the proper care and nutrition and growth of the child and he also must strive to get the child



admitted in any of the premiere institution in Patna, considering the fact that husband of opposite party no.2 is working in Patna in some private organization.

13. In peculiar facts of the case and considering the background circumstances of the welfare of the child on the touchstone of principle of *parens patriae* jurisdiction as the minor is within the jurisdiction of the Court, the Apex Court found it in the case of ***Howarth v. Northcott, 152 Conn 460*** that the welfare of the child is of paramount consideration of the Court. I find it apt to reproduce the observations made by the Apex Court in the aforesaid case, which is as under:

"In habeas corpus proceedings to determine child custody, the jurisdiction exercise by the Court rests in such cases on its inherent equitable powers and exerts the force of the State, as parens patrie, for the protection of its infant ward, and the very nature and scope of the inquiry and the result sought to be accomplished call for the exercise of the jurisdiction of a court of equity." (emphasis supplied)

It was further observed;

"The employment of the forms of habeas corpus in a child custody case is not for the purpose of testing the legality of a confinement or restraint as contemplated by the ancient common law writ, or by statute, but the primary purpose is to furnish a means by which the court, in the exercise of its judicial discretion, may determine what is best for the welfare of the child, and the decision is reached by a consideration of the equities involved in the welfare of the child, against which the legal rights of no one, including the parents, are allowed to militate. It was also indicated that ordinarily, the basis for issuance of a writ of habeas corpus is an illegal detention; but in the case of such a writ sued out for the detention of a child, the law is concerned not so much with the illegality of the detention as with the welfare of the child."



14. In this regard, it would be also gainful to reproduce the observation made by the Apex Court in ***Mausami Moita Ganguli V. Jayant Ganguli*** reported in **(2008)7 SCC 673** in paragraph nos. 19 to 21 and 23 to 26:

“19. The principle of law in relation to the custody of a minor child are well settled. It is trite that while determining the question as to which parent the care and control of a child should be committed, the first and the paramount consideration is the welfare and interest of the child and not the rights of the parents under a statute. Indubitably, the provisions of the law pertaining to the custody of a child contained in either the Guardians and Wards Act, 1890(Section 17) or the Hindu Minority and Guardianship Act, 1956 (Section 13) also hold out the welfare of the child as a predominant consideration. In fact, no statute, on the subject, can ignore, eschew or obliterate the vital factor of the welfare of the minor.”

“20. The question of welfare of the minor child has again to be considered in the background of the relevant facts and circumstances. Each case has to be decided on its own facts and other decided cases can hardly serve as binding precedents in so far as the factual aspects of the case are concerned. It is, no doubt, true that father is presumed by the statutes to be better suited to look after the welfare of the child, being normally the working member and head of the family, yet in each case the court has to see primarily to the welfare of the child in determining the question of his or her custody. Better financial resources of either of the parents or their love for the child may be one relevant considerations but cannot be the sole determining factor for the custody of the child. It is here that a heavy duty is cast on the court to exercise its judicial discretion judiciously in the background of all the relevant facts and circumstance, bearing in mind the welfare of the child as the paramount consideration.”

21. In Rosy Jacob v. Jacob A. Chakramakkal reported in (1973) 1 SCC 840, a three-Judge Bench of the Apex Court in a rather curt language had observed that the controlling factor governing the custody of the child would be its welfare and not the rights of the parent:

“15. ... The children are not mere chattels: nor are they mere playthings for their parents. Absolute right of the parents over the destinies and the lives of their children has, in the modern changed social conditions, yielded to the considerations of their welfare as human being so that they may grow up in a normal balanced manner to be useful members of the society and the guardian court in case of a



dispute between the mother and the father, is expected to strike a just and proper balance between the requirements of welfare of the minor children and the rights of their respective parents over them.”

“23. Having bestowed our anxious consideration to the material on record and the observation made by the courts below, we are of the view that in the present case there is no ground to upset the judgment and order of the High Court. There is nothing on record to suggest that the welfare of the child is in any way in peril in the hands of the father. In our opinion, the stability and security of the child is also essential ingredient for a full development of child’s talent and personality. As noted above, the appellant is a teacher, now employed in a school at Panipat, where she had shifted from Chandigarh some time back. Earlier, she was teaching in some school at Calcutta.

Admittedly, she is living alone. Except for a very short duration when he was with the appellant, Master Satyajeet has been living and studying in Allahabad in a good school and is stated to have his small group of friends there. At Panipat, it would be an entirely new environment for him as compared to Allahabad.”

“25. It is also significant to note that during the course of hearing on one of the dates, when we had not yet interviewed Satyajeet, we had suggested that it would be better if the child could stay with his mother for some more time. However, upon hearing us, he started crying and whining and, showed reluctance to go with the mother.”

Watching his reaction, we dropped the proposal.

“26. Under these circumstances and bearing in mind the paramount consideration of the welfare of the child, we are convinced that the child’s interest and welfare will be best served if he continues to be in the custody of the father, In our opinion, for the present, it is not desirable to disturb the custody of master Satyajeet and, therefore, the order of the High Court giving his exclusive custody to the father with visitation rights to the mother deserves to be maintained. We feel that the visitation rights to the appellant by the High Court, as noted above, also do not require any modification.”

We, therefore, affirm the order and the afore-extracted direction given by the High Court. It will, however, be open to the parties to move this Court for modification of this order or for seeking any direction regarding the custody and well- being of the child, if there is any change in the circumstances.”

15. In the case of **Gaurav Nagpal v. Sumedha**



Nagpal reported in **(2009) 1 SCC 42**, the Apex Court in paragraph 50 has held as follows:-

"50. When the Court is confronted with conflicting demands made by the parents, each time it has to justify the demands. The Court has not only to look at the issue on legalistic basis, in such matters human angles are relevant for deciding those issues. The Court then does not give emphasis on what the parties say, it has to exercise a jurisdiction which is aimed at the welfare of the minor."

16. Considering the facts and circumstances of the case and the law laid down by the Apex Court as referred above, entire proceeding including the order dated 19.10.2022 passed by the learned SDJM, Jehanabad is **hereby set aside and quashed to the extent, it relates to petitioners no. 1, 2 and 3.**

17. However, I find that the petitioner no.2, who is mother-in-law shall take steps along with her son (accused) to settle the dispute amicably in light of the law laid down by the Apex Court as referred hereinabove.

18. Accordingly, the present quashing application stands disposed of.

(Purnendu Singh, J)

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