

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.77425 of 2023**

Arising Out of PS. Case No.-415 Year-2021 Thana- KAUWAKOL District- Nawada

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1. Raj Kumar Halwai @ Raj Kumar Prasad, son of Kesho Halwai
  2. Mukesh Kumar, S/o Raj Kumar Halwai @ Raj Kumar Prasad
  3. Kanchan Devi @ Kanchan Kumari, W/o Mukesh Kumar
- All are resident of village- Dayanagar Nursarai, P.S.- Nursarai, Dist- Nalanda

... .. Petitioners

Versus

1. The State of Bihar
2. Priyanka Kumari, D/o- Trilok Kumar, resident of Village-Kawakole Behind Hospital, P.S.- Kawakole, Dist- Nawada.

... .. Opposite Parties

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**Appearance :**

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|--------------------------|---|-----------------------------------------|
| For the Petitioner/s     | : | Mr. Bashishtha Narayan Mishra, Advocate |
|                          |   | Mr. Brij Kishor Mishra, Advocate        |
| For the Opposite Party/s | : | Ms. Pushpa Sinha1, APP                  |
| For the O.P. No.2        | : | Mr. Pankaj Kumar, Advocate              |

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL JUDGMENT**

**Date : 02-07-2025**

Heard learned counsel for the petitioners, learned  
APP for the State and learned counsel appearing on behalf of  
O.P. No.2/informant.

2. The present application has been preferred by  
the petitioners for quashing of the order dated 14.09.2023 as  
passed by the learned Judicial Magistrate-1st Class, Nawada  
in connection with Kawakole P.S. Case No.415 of 2021, G.R.  
No.3602 of 2021, whereby the learned jurisdictional



Magistrate has taken cognizance for the offences punishable under Sections 498-A read with 34 of the Indian Penal Code (in short 'IPC') as well as Sections 3 and 4 of the Dowry Prohibition Act against the petitioners and other.

3. The case of prosecution in brief is that the marriage of O.P. No.2, namely, Priyanka Kumari was solemnized on 01.03.2020 according to Hindu Customs and Rituals with petitioner Rupesh Kumar, son of Raj Kumar Halwai, resident of village-Dayanagar Nursarai, P.S.-Nursarai, District-Nalanda. At the time of marriage, the parents of informant had given sufficient gift, which are mentioned in the FIR. The informant further alleged that Rupesh Kumar (husband), Mukesh Kumar, Kanchan Devi and Raj Kumar Halwai started torturing her mentally and physically for further dowry of Rs.1,00,000/- (Rupees One Lakh)/Five Lakh. The informant further alleged that her parents came to her matrimonial home and tried to pacify the matter but, they were adamant for realizing Rs. 5 lakh in the name of dowry saying that unless it is paid, they will not allow her to reside at the matrimonial house. It is further alleged



that other relatives, namely, Pappi Devi, Mahendra Prasad Halwai and Rani Devi were also torturing for dowry.

4. With aforesaid allegation, the police registered Kawakole P.S. Cse No.415 of 2021 against the petitioner and others for which the charge-sheet was submitted on 30.12.2022 under sections 498-A read with 34 of the IPC as well as Sections 3 and 4 of the Dowry Prohibition Act.

5. On the basis of materials available on record, the learned Judicial Magistrate-1st Class, Nawada vide impugned order dated 14.09.2023 took cognizance against the petitioners including other co-accused person.

6. It is submitted by learned counsel that the petitioners are in-laws and living separately with O.P. No.2 and her husband. It is submitted that the nature of allegation *qua* alleged cruelty as committed upon O.P. No.2 appears very much general and omnibus against petitioners. It is also submitted that the allegation *qua* raising demand of dowry is also not specific against petitioners, who are in-laws. It is submitted that the petitioners have been implicated in this case only for the reason as they are relatives of the husband



of O.P. No.2. In support of his submission, learned counsel has relied upon the legal report of Hon'ble Supreme Court as available through **Abhishek vs. State of Madhya Pradesh** as reported in **2023 SCC Online SC 1083**.

7. On the other hand, learned counsel appearing for O.P. No.2 submitted that the petitioners are in-laws and actively participated in the occurrence but, fairly conceded that the thrust of allegation is available against husband namely, Rupesh Kumar, who is not the petitioner.

8. It would be apposite to reproduce para Nos.-13, 14, 15, 16 and 17 the legal report of Hon'ble Supreme Court as available through **Abhishek case** (supra), which are 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 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 *State of Haryana v. Bhajan Lal*, [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.”

9. In view of aforesaid factual and legal submissions and by taking note of the fact that the petitioners are in-laws and they claimed to live separately *prima facie* suggesting that they have no connection with daily and domestic affairs of O.P. No.2 and her husband, where thrust of allegation is available mainly against the husband of O.P. No.2, accordingly, by taking guiding note of **Abhishek Case**



(supra), the order dated 14.09.2023 passed by the learned Judicial Magistrate-1st Class, Nawada in connection with Kawakole P.S. Case No.415 of 2021, G.R. No.3602 of 2021 with all its consequential proceeding is hereby quashed/set aside *qua* above-named petitioners.

10. The application stands allowed.

11. Let a copy of this judgment be communicated to the learned trial court forthwith.

**(Chandra Shekhar Jha, J.)**

Sanjeet/-

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