

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81268 of 2024

Arising Out of PS. Case No.-178 Year-2017 Thana- DIGHWARA District- Saran

1. Rajiv Kumar Singh @ Rajiv @ Rajiv Singh Son of Ajay Kumar Singh Village- Chap PS -Paru District -Muzaffarpur A/P E-21 Radhika Tower, Ashiana Garden Chira Chas PS- Chas District -Bokaro
2. Ajay Kumar Singh Son of Late Jagannath Prasad Singh Village- Chap PS -Paru District -Muzaffarpur A/P E-21 Radhika Tower, Ashiana Garden Chira Chas PS- Chas District -Bokaro
3. Bindu Devi @ Bindu Singh Wife of Ajay Kumar Singh Village- Chap PS -Paru District -Muzaffarpur A/P E-21 Radhika Tower, Ashiana Garden Chira Chas PS- Chas District -Bokaro
4. Nibha Devi @ Nibha Kumari Wife of Suraj Kumar @ Suraj Singh village- State square, Cheshire Home road, Dipatoli, Ps- Ranchi, Dist- Ranchi
5. Pratibha Devi @ Pratibha Kumari Wife of Mukesh Parasar village- flat no. D-5, 1203, Supertech Eco Village, Greater Noida, Ps- Bistrakh, Dist- Gautam Budh Nagar,
6. Kiran Devi @ Kiran Kumari Wife of Ravi Bhushan village- Flat no. 18, Rudra Apartment Chira Chas, Ps- Chas, Dist- Bokaro
7. Prakash Singh @ Prakash Kumar son of Late Subodh Singh @ Subodh Kumar village- Pokhrai, Ps- Saraiya, Dist- Muzaffarpur
8. Vikash Singh @ Vikash Kumar son of Pramod Singh @ Pramod Kumar village- Pokhrai, Ps- Saraiya, Dist- Muzaffarpur
9. Suraj Singh @ Suraj Kumar son of Om Prakash Singh village- State Square, Cheshire Home road, Dipatoli, Ps- Ranchi, Dist- Ranchi

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nidhi Kumari Wife of Rajiv Singh @ Rajiv @ Rajiv Kumar village- Shitalpur Chakya, Ps- Dighwara, Dist- Saran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Madhukar Anand, Advocate

For the Opposite Party/s : Mr.Uma Shankar Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL JUDGMENT

Date : 05-08-2025

Heard learned counsel for the petitioners, learned
counsel for the informant and learned A.P.P. for the State.



2. The present application has been preferred by the petitioners for quashing the order dated 04.04.2024 passed by learned Sub-Divisional Judicial Magistrate, Saran at Chapra in Trial No. 1923/2024, which arises out of Dighwara P.S. Case No. 178/2017.

Brief facts of the case

3. The informant, namely Nidhi Kumari, gave a written report alleging therein that her marriage was solemnized with Rajiv Singh (petitioner no. 1) on 05.03.2017. It is further alleged in the report that all the named accused persons started demanding money for buying swift car despite gifts worth Rs. 22,00,000/- being given to the petitioner during the marriage. The informant has further alleged that her father-in-law used to touch her inappropriately and even did dirty talking with her and when she made a complaint to her husband, nothing was done. The informant has gone to allege that she got pregnant upon which her husband got angry and all the accused persons started pressurizing her for getting abortion done and when she refused, it is alleged that her father-in-law, mother-in-law, sister-in-law, Prakash Singh, Vikash Singh and Suraj Singh abused her and even assaulted her. And finally on 07.09.2017, all the accused persons took her along



with them to Bokaro where they deboarded her from the car near Shitalpur railway station and left her alone.

Submissions made on behalf of the petitioners

4. Learned counsel for the petitioners submit that the present FIR was lodged by the informant on a frivolous and concocted story levelling allegations which were very demeaning. It is further submitted that from plain reading of the FIR it would be evident that there is general and omnibus allegations made against all the accused persons barring a few allegations upon the old father of petitioner no. 1, i.e. Ajay Kumar Singh. Learned counsel for the petitioner submits that the police in a very mechanical manner has submitted charge-sheet against six accused persons and the remaining three accused namely Nibha Devi, Pratibha Devi, Kiran Devi were not chargesheeted as they were not found involved in the present case. Learned counsel for the petitioner submits that the learned court below partially deferring with the chargesheet took cognizance against all the FIR named nine persons and issued process against them.

5. Learned counsel thereafter submits that finding the allegations against the petitioners are not only false but also malicious in nature, a petition under Section 239 Cr.P.C. for



discharge was filed, however, the same was rejected by the impugned order.

6. Learned counsel has specified the relationship of the nine petitioners, from which it appears that petitioner no. 1 is the husband of the informant, while petitioner nos. 2 and 3 are father-in-law and mother-in-law respectively, petitioner nos. 4, 5 and 6 are married sisters-in-law of the informant, and petitioner no. 9 is the husband of petitioner no. 4. Likewise, petitioner nos. 7 and 8 are cousin brother (ममेरा भाई) of petitioner no. 1. Learned counsel submits that the marriage of petitioner nos. 4, 5 and 6 was solemnized prior to the marriage of informant and they were living at their respective matrimonial houses having no say in the matrimonial life of the informant and their brother namely Rajeev Singh.

7. Learned counsel for the petitioners submit that petitioner nos. 7 and 8, who are the cousin brother of petitioner no. 1 live in their own residence at Muzaffarpur and had no occasion to interfere in the matrimonial life of the informant.

8. Learned counsel for the petitioners has pointed towards Annexure '3' which is a medical prescription and ultrasound report of the informant which stated that the informant



was found to be 35 weeks 2 days pregnant on 13.05.2017 i.e. within two months and ten days of the marriage.

9. Learned counsel for the petitioners submits that on account of such report, the petitioner no. 1 had filed an application before the learned Principle Judge, Family Court, Bokaro for declaring marriage of petitioner no. 1 with the informant as null and void which was registered as Original Suit/Title (Matrimonial) Suit No. 342/ 2017, which was subsequently transferred from Family Court, Bokaro to Family Court, Saran at Chapra by the order of the Hon'ble Apex Court and subsequently registered as Annulment Case No. 07/2019 at Family Court, Saran at Chapra.

10. Learned counsel for the petitioners thus submit that it was on account of such lodging of the Annulment Case and after issuance of notice, the present FIR was lodged by the informant/ O.P. No. 2 as vexatious complaint, just to settle personal scores.

11. Learned counsel for the petitioners has referred to the recent judicial pronouncement of the Hon'ble Apex Court in **Kahkashan Kausar @ Sonam & Ors. vs. State of Bihar & Ors.** reported in **2022 SCC Online SC 162** wherein while quashing the prosecution against the in-laws, it has been held in para '18' as under :-

"18. The above-mentioned decisions clearly demonstrate that this court has at



numerous instances expressed concern over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analyzing 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." "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."

12. Learned counsel next refers to another judgment of the Hon'ble Apex Court passed in **Mahmood Ali vs. State of U.P.** reported in **(2023) SCC Online SC 684** wherein the Hon'ble Apex Court has observed as under :-

" 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 try to read in between the lines. ”

13. Learned counsel has lastly relied upon the dictum as contained in case of **State of Harayana and Ors. versus Bhajan Lal and Ors.** reported in 1992 SCC (Cri.) 426.

Submissions made on behalf of the Opposite Party No. 2

14. On the contrary, learned counsel for O.P. No. 2 has submitted that the petitioner has approached this Court challenging the rejection of the prayer of discharge and as such this Court cannot go into the details of the allegations levelled against the petitioners and it is to be seen only *prima facie* whether a case has been made or not. Learned counsel for O.P. No. 2 has stated that this Court cannot also carry mini trial while deciding the issue as to whether charges can be framed or not. Learned counsel for O.P. No. 2 has further referred to paragraph no. 21 of the judgment of Hon'ble Apex Court in the case **State of Tamil Nadu vs. N. Suresh Rajan and Ors** reported under **2014 (2) PLJR (SC) 49** and has stated that during the framing of charge the court has to only *prima facie* see as to the allegations levelled in the FIR and whether the materials collected during the course of investigation contain *prima facie* case against the accused persons and if it is found that there is a *prima facie* case, as has been observed by the



learned Trial Court in the present case, the impugned order does not suffer from any illegality and the same has been passed taking into account the materials collected during the course of investigation. It has lastly been submitted that the present application is devoid of any merit and should be dismissed. The relevant paragraph no. 21 of judgment of this Court in the case **N. Suresh Rajan** (*supra*) is reproduced hereinbelow:-

“21. True it is that at the time of consideration of the applications for discharge, the court cannot act as a mouth-piece of the prosecution or act as a post office and may sift evidence in order to find out whether or not the allegations made are groundless so as to pass an order of discharge. It is trite that at the stage of consideration of an application for discharge, the court has to proceed with an assumption that the materials brought on record by the prosecution are true and evaluate the said materials and documents with a view to find out whether the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. In our opinion, what needs to be considered is whether there is a ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out. To put it differently, if the court thinks that the accused might have committed the offence on the basis of the materials on record on its probative value, it can frame the charge; though for conviction, the court has to come to the conclusion that the accused has committed



the offence. The law does not permit a mini trial at this stage. Reference in this connection can be made to a recent decision of this Court in the case of Sheoraj Singh Ahlawat & Ors. vs. State of Uttar Pradesh & Anr., AIR 2013 SC 52, in which, after analyzing various decisions on the point, this Court endorsed the following view taken in Onkar Nath Mishra vs. State (NCT of Delhi), (2008)2 SCC 561:

"11. It is trite that at the stage of framing of charge the court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclosed the existence of all the ingredients constituting the alleged offence. At that stage, the court is not expected to go deep into the probative value of the material on record. What needs to be considered is whether there is a ground for presuming that the offence has been committed and not a ground for convicting the accused has been made out. At that stage, even strong suspicion founded on material which leads the court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged would justify the framing of charge against the accused in respect of the commission of that offence.""

Consideration

15. Having heard both sides, this Court finds that from the allegations levelled in the FIR, it is evident that there are general and omnibus allegations levelled against the accused persons/ petitioners while as far as petitioner nos. 7 and 8 are concerned they are not even immediate family members of the husband of the informant i.e. Rajiv Kumar Singh and they do not



even reside at the house of the petitioner no. 1. This Court also takes note of the fact that the petitioner nos. 4, 5 and 6 are the married sisters-in-law of the informant who had been married even prior to the marriage of the informant with petitioner no. 1 and had been living separately at Ranchi, Noida and Bokaro respectively, while petitioner no. 9 (Suraj Singh) happens to be the husband of petitioner no. 4 i.e. brother-in-law of petitioner no. 1.

16. At this juncture, this Court is reminded of the recent judicial pronouncement as cited by the learned counsel for the petitioners in the case of **Kahkashan Kausar** (*supra*) wherein the Hon'ble Supreme Court has reiterated the earlier judicial pronouncement wherein the courts have been warned against proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them. The Court has also stated that in the FIR wherein one fails to ascertain the roles played by each accused, allegations are therefore general and vague and no specific case at best can be made out on account of small particulars. Thus, in the present case as has been observed as far as the petitioner nos. 3, 4, 5, 6, 7, 8 and 9 are concerned, the allegations against them are general and omnibus and do not support prosecution.



17. This Court has also taken note of the judicial pronouncement wherein the Hon'ble Apex Court has stated that it will not be enough for the Court to look into the averments made in the FIR/ complaint for the purposes of ascertaining whether the the necessary ingredients to constitute the alleged offences are disclosed or not. Taking a leaf out of such observations, this Court refers back to the FIR where the informant has taken the name of the nine accused at one breath and has alleged that they had all jointly demanded money for buying a swift car. The nature of allegations can further be ascertained when the informant states that all the named accused persons stopped her giving food and clothes and used to abuse and all the accused persons pressurized her to abort the child she was carrying. The falsity of the allegations can further be drawn from the FIR wherein the informant's husband on one hand along with all the accused abused her and even assaulted her with fist and at the other in which her husband took her to the doctor and got her treated when she was ill.

18. In view of such general averments, this Court is constrained to take a very strong view against the allegations levelled against the petitioners namely Nibha Devi (petitioner no. 4), Pratibha Devi (petitioner no. 5), Kiran Devi (petitioner no. 6),



Prakash Singh (petitioner no. 7), Vikash Singh (petitioner no. 8) and Suraj Singh (petitioner no. 9) against whom *prima facie* no case is being made out being an outsider of the informant's immediate in-laws i.e. petitioner nos. 1, 2 and 3.

19. This Court now further observes that even the allegations levelled against the petitioner no. 1,, i.e. husband of the informant Rajiv Kumar Singh and the mother-in-law of the informant, i.e. Bindu Devi are general and omnibus, and there is no specific averment regarding their role in demand of dowry or of torture. It is further observed that the allegations levelled against the father of the petitioner no. 1, a 70 year old man with regard to him touching her inappropriately is again levelled by the informant at the same breath after the allegations of demand of dowry by all the accused persons had been made, which goes on to display the prejudice she was carrying against the petitioners including her father-in-law and husband.

20. This Court in view of the judicial pronouncement referred to above is of the opinion that the allegations levelled against all the petitioners are general and omnibus and there is no specific allegation against any of the petitioners which *prima facie* seems to be a malicious prosecution and thus in the interest of law which comes practically under the glimpse, as contained in



paragraph ‘102’ of the judicial pronouncement made in the case of **Bhajan Lal** (*supra*), the present application is allowed.

21. The order dated 04.04.2024 passed by the court of Learned Sub-Divisional Judicial Magistrate, Saran at Chapra in Trial No. 1923/2024 arising out of Dighwara P.S. Case No. 178/2017 is hereby quashed and thereby the entire proceedings arising out of Dighwara P.S. Case No. 178/2017 stands quashed.

22. The application is allowed.

(Sourendra Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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