

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83375 of 2023

Arising Out of PS. Case No.-39 Year-2017 Thana- MAHILA PS District- Darbhanga

Manish Kumar, Son of Rohit Panjiyar, Resident of Mohalla-Yachinagar
Benta, Police Station- Laheriasarai

... .. Petitioner

Versus

1. The State of Bihar
2. Megha Kumari, Daughter of Chandra Kishore Mahto @ Kishore Mahto,
Resident of Village- Doghara, P.S- Jaley, District- Darbhanga

... .. Opposite Parties

Appearance :

For the Petitioner/s : Ms. Smiti Bharti, Advocate

For the Opposite Party/s : Mr. Syed Mojibur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 21-03-2025

Heard learned counsel for the petitioner and learned
APP appearing for the State.

2. The present application has been filed for quashing the order dated 28.08.2023 as passed by learned S.D.J.M., Darbhanga in CRI No.1311 of 2017, corresponding to Trial No.1061 of 2023, arising out of Darbhanga Mahila (Laheriasarai) P.S. Case No.39 of 2017, whereby the learned trial court has rejected the prayer of the petitioner filed under Section 239 of the Code of Criminal Procedure (for short 'Cr.P.C.') and ordered for framing of the charge against him for the offences punishable under Sections 498-A, 323, 504, 506, 354 read with 34 of the Indian Penal Code (in short



‘CrPC’) as well as Sections 3 and 4 of the Dowry Prohibition Act.

3. The case of prosecution in brief is that the marriage of the informant, namely, Megha Kumari was solemnized with one Sanjeev Panjiyar, as per Hindu Rites and Rituals on 18.04.2016, After the marriage, the informant joined her matrimonial home at Mohalla-Ayachinagar Benta, Darbhanga. The father-in-law, mother-in-law, devar Manish Kumar (petitioner), Shushma Rani (Nanad) and Savita Rani (Nanad) of the informant, were also resided in same house. The informant further stated that Birendra Nayak, Suryaprakash Nayak and Savita Devi often visited her *sasural*. At the time of marriage, jewellery, house-hold articles like fridge, TV, furniture etc. besides Rs. 10 Lakh in cash was given by her parents. After some time, the accused persons started demanding scorio vehicle but, due to non-fulfilment of the said demand, the accused persons started torturing in various ways. She further stated that the Manish Kumar (petitioner) also used to tease her physically. The accused persons also used to suggest her to have sexual



relationship with the doctor and the compounder and on being objected by her, the husband of the informant used to say that there is nothing wrong in having sex with others. The accused persons also threatened her to death in case their demands are not fulfilled.

4. On the basis of aforesaid information, Mahila (Laheriasarai) P.S. Case No.39 of 2017 was registered for the offences punishable under Sections 498-A, 323, 504, 506, 354 read with 34 of the IPC as well as Sections 3 and 4 of the Dowry Prohibition Act.

5. Upon completion of investigation, the police submitted charge-sheet against nine accused persons including the petitioner for having committed the offences under Sections 498-A, 323, 504, 506 of the IPC as well as Sections 3 and 4 of the Dowry Prohibition Act.

6. The learned S.D.J.M., Darbhanga after perusal of the materials available on record during the course of investigation, vide order dated 18.12.2017 took cognizance of the offences punishable under Sections 498-A, 323, 504, 506 read with 34 of the IPC as well as Sections 3 and 4 of the



Dowry Prohibition Act against the petitioner and other accused persons.

7. Thereafter, a petition under Section 239 of the CrPC was filed on behalf of the petitioner for discharge but, the same was refused by the court of learned S.D.J.M. Darbhanga vide order dated 28.08.2023.

8. Being aggrieved with the aforesaid order dated 28.08.2023, the petitioner has filed the present quashing petition.

9. Ms. Smiti Bharti, learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and has been falsely implicated with this case, because he happens to be the brother-in-law (devar) of the informant. It is further submitted that from perusal of FIR, it can be said safely that there is no specific allegation against the petitioner and, as such, no offence can be attributed to him.

10. It is further submitted that the prosecution case is quite vague as far as the allegation against the petitioner is concerned and same not appears legally tenable. It is further submitted that even if the statement of the



witnesses in course of investigation is taken to be true, no offence can be attributed against this petitioner. It is further submitted that the investigation of the case appears faulty, as the Investigating Officer has not investigated into the credentials of the petitioner, who happens to be a Bank employee and was working out of State of Bihar and is still working in Uttar Pradesh. It is further submitted that the court below ought to have considered the fact that how so many accused persons jointly commit such an offence. The learned trial court has passed the order in a mechanical manner and without application of judicial mind.

11. In support of her submission, learned counsel for the petitioner has relied upon the legal report of Hon'ble Supreme Court as available through **Geeta Mehrotra vs. State of U.P. [(2012) 10 SCC 741]** in which the Hon'ble Supreme Court held that little matrimonial skirmishes suddenly erupt, which often assume serious propositions resulting in commission of heinous crimes in which elders/younger of the family are falsely implicated by the wives. Learned counsel further relied upon the legal report of



Hon'ble Supreme Court as available through **K. Subba Rao vs. State of Telengana [(2018)14 SCC 452]**, where it was observed that the court should be careful in proceeding the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. Learned counsel also relied upon the Apex Court decision in the case of **State of Haryana and Others vs. Bhajan Lal and Others reported in 1992 Supp (1) Supreme Court Cases 335.**

12. In view of aforesaid, learned counsel submitted that so far as this petitioner is concerned, the entire criminal proceeding including the order to frame charge in connection with Trial No.1061 of 2023 pending in the court of learned S.D.J.M. Darbhanga is fit to be quashed/set aside.

13. Learned APP appearing on behalf of State while opposing the application for discharge submitted that the petitioner has tortured the informant due to non-fulfilment of demand of dowry. It is submitted that the court below has rightly rejected the petition filed under Section 239 of the CrPC by the petitioner, but fairly conceded that no cognizance was taken against petitioner in view of only specific allegation



qua outraging the modesty of O.P. No. 2.

14. Notice as issued against O.P. No. 2 deemed validly served upon publication *qua* present proceeding through newspaper. O.P. No. 2 failed to join present Court proceeding.

15. Upon perusal of materials available on record and submissions as canvassed by learned counsel for the petitioner, it appears that only specific allegation against petitioner, who is brother-in-law is of outraging the modesty of O.P. No. 2 occasionally, who is a bank employee and posted at remote place in Uttar Pradesh. From the impugned cognizance order, it nowhere appears that the cognizance *qua* said allegation was taken against this petitioner i.e., for the offence punishable under Section 354 of the IPC. It appears that for the rest of the allegations petitioner was simply named without having any allegation in very mechanical manner, prima-facie, only being brother of husband of O.P. No. 2.

16. At this stage, it would be apposite to reproduce the paragraph no. 102 of **Bhajan Lal Case (supra)**, which



is 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 nay 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.”

17. Considering the aforesaid fact as no cognizance was taken against petitioner for outraging the modesty, where the allegation against petitioner is very superficial *qua* alleged cruelty, where thrust of allegation is available against husband of O.P. No. 2. Accordingly, by taking a guiding note



of **Bhajan Lal (supra)**, it appears that this case is covered under the guidelines as mentioned in para nos. 5 and 7 as aforesaid, therefore, impugned order dated 28.08.2023 as passed by learned Sub-Divisional Judicial Magistrate, Darbhanga with all its consequential proceedings, *qua*, petitioner arising thereof as passed in CRI No. 1311 of 2017, Trial No. 1061 of 2023 in connection with Darbhanga Mahila (Laheriasarai) P.S. Case No. 39 of 2017, is hereby quashed and set aside.

18. Hence, this application stands allowed.

19. Office is directed to send a copy of the order to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.03.2025
Transmission Date	29.03.2025

