

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86109 of 2024

Arising Out of PS. Case No.-4 Year-2024 Thana- MAHILA P.S. District- Siwan

1. Akhilesh Kumar Choudhary, S/o Ashok Kumar Choudhary, R/o Sector-3E, Qtr. No. 273, Bokaro Sector-3, P.O. + P.S.-Bokaro Steel City, Distt.- Bokaro, Jharkhand and currently residing at C/o Rajendra Kumar, Diwakar Nagar, near Balumath Block, Latehar, P.O. and P.S.- Balumath, Distt.- Latehar, Jharkhand
2. Priyanka Kumari, D/o Dharni Dhar Singh, R/o Near Hanuman Mandir, Phusro, P.S .- Bermo, Maakoli, Bokaro, Jharkhand

... .. Petitioners

Versus

1. The State of Bihar
2. Rima Kumari @ Rima Devi, W/o Akhilesh Kumar Choudhary, D/o Jay Prakash Choudhary, R/o Purani Bazar (Pasnauli), Ward No.6, P.O. - Maharajganj, P.S. - Maharajganj, Dist.- Siwan

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Vibhuti Kumar, Advocate
For the State	:	Mr. Ram Bilash Roy Raman, APP
For the O.P. No.2	:	Ms. Shilpi Singh, Advocate
		Mr. Abhishek Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 15-02-2025

Heard learned counsel for the petitioners and learned APP appearing for State duly assisted by learned counsel for the O.P. No.2.

2. The present application has been filed by the petitioners for quashing the First Information Report (in short



‘F.I.R.’) of Mahila P.S. Case No.4 of 2024 registered for the offences punishable under Sections 323, 379, 494, 498-A, 504, 406 read with 34 of Indian Penal Code (in short ‘I.P.C.’) as well as Sections 3 and 4 of the Dowry Prohibition Act (in short ‘D.P. Act’).

3. The prosecution case, in brief, as per informant, namely, Rima Kumari @ Rima Devi is that the marriage of informant/O.P. No.2 was solemnized on 23.01.2022 with petitioner No.1. The parents of the informant has given Rs. 14 lakhs in cash, fridge, washing machine, cooler, sofa etc. worth of Rs.2 lakhs and jewellery worth of Rs. 5 lakhs by way of gift and Rs. 1 lakh was also given to the petitioner for chain (*sikdi*). She further alleged that a demand for four wheeler was also made at the time of *vidai* by the petitioners. Thereafter, the informant visited her matrimonial house, where everything was fine for few days but, after three days, father of petitioner no.1, namely, Akhilesh Kumar Choudhary told that if the marriage of his son was solemnized somewhere else, he would have been given a four wheeler as dowry. The informant conveyed the demand of petitioner no.1



and other accused person to her parents. Thereafter, the father of informant visited the matrimonial house of informant and expressed his inability to fulfill their demand but, accused persons were not agreed upon and they started harassing the informant in many ways. It is further alleged that petitioner no.1 is Manager at Central Bank and left the informant after beating her and in his absence, other accused persons harassed the informant for dowry. On 10.06.2023, when petitioner no.1 returned, he along with other accused assaulted the informant after snatching her *stridhan* ousted her from house whereafter petitioner no.1 left her at Siwan Station. It is also alleged that petitioner no.1 has now married with another lady (petitioner no.2) and they are not ready to keep the informant without four wheeler in dowry.

4. On the basis of aforesaid allegation, the informant/O.P. No.2 has filed a complaint case being Cr. Case Complaint (P) No. 2324 of 2023 dated 02.12.2023 before learned Chief Judicial Magistrate, Siwan. Subsequently, the same was referred to the police for registration of FIR. Consequently, Mahila P.S. Case No.4 (5135029240004) of



2024 registered under Sections 323, 379, 494, 498-A, 504, 406 read with 34 of I.P.C. as well as Sections 3 and 4 of the D.P. Act.

5. It is submitted by learned counsel appearing for the petitioners that the matter/disputes settled between the parties, where both parties have decided to dissolve their marriage by way of mutual divorce against one-time settlement *qua* maintenance for Rs. 12,00,000/ (Rupees Twelve Lakhs only). It is submitted that acting further on said compromise, which is Annexure-P/2 of the present petition, petitioner paid Rs. 10,00,000/- (Rupees Ten Lakhs only) to O.P. No.2/wife through two different demand drafts, which was issued by Central Bank of India, bearing No.148744 for Rs. 5 lakhs and another draft of Rs.5 lakhs also, bearing No. 148745. The remaining amount of Rs. 2 lakh as per compromise be paid to O.P. No.2 by the petitioner no.1 on disposal of divorce petition in terms of compromise. It is submitted that in view of compromise, as submitted above, the continuing with present proceeding before the trial court would only amount to abuse of the process of court.



6. Mr. Deepak Kumar, learned counsel appearing for O.P. No.2 approved the factum of compromise as submitted above by learned counsel appearing for petitioners.

7. It would be apposite to re-produce the settlement terms of agreement, which is as under:-

दिनांक - 12.08.2024

समझौता ज्ञापन सह शपथ पत्र

अखिलेश कुमार चौधरी आयु लगभग 39 वर्ष। पुत्र -
अशोक कुमार चौधरी, निवासी मायागंज, पोस्ट -
मायागंज, थाना. बरारी, जिला - भागलपुर

..... प्रथम पक्ष

और

रीमा कुमारी @ रीमा देवी, पत्नी-अखिलेश कुमार
चौधरी, पुत्री जय प्रकाश चौधरी, निवासी पुरानी
बाजार (पसनौली), वार्ड नं. 6 पी.ओ. महाराजगंज,
थाना-महाराजगंज, जिला - सिवान

..... द्वितीय पक्ष

कि पक्षों ने अपने शुभचिंतकों और रिश्तेदारों तथा अपने वकीलों के हस्तक्षेप से निम्नलिखित नियमों व शर्तों पर न्यायालय के बाहर अपने समस्त विवादों को सौहार्दपूर्ण ढंग से सुलझा लिया है:-

(i) यह कि द्वितीय पक्ष सभी विवादों का निपटारा करने तथा संबंधित न्यायालयों में लंबित सभी मामलों को वापस लेने पर सहमत हो गए हैं।

(ii) यह कि विवादों का निपटारा करने के लिए प्रथम पक्ष द्वितीय पक्ष को एकमुश्त स्थायी राशि



के रूप में 12,00,000/- रुपये (बारह लाख रुपये) का भुगतान करने के लिए तैयार है।

यह कि सभी पक्ष निम्नलिखित नियमों व शर्तों पर सहमत हैं:

A. यह की आपसी सहमति है कि प्रथम पक्ष तीन किस्तों में द्वितीय पक्ष को एकमुश्त भुगतान के रूप में 12,00,000 रुपये (बारह लाख रुपये) का भुगतान करने के लिए तैयार है।

B. यह की प्रथम पक्ष द्वारा सेंट्रल बैंक ऑफ इंडिया, डिमांड ड्राफ्ट Dated 09.08.2024, No. 148744 के माध्यम से Rs.5,00,000/- (पाँच लाख रुपए) का भुगतान आज किया जाएगा और अगली भाग का भुगतान जो की Rs. 5,00,000/- (पाँच लाख रुपए) है उसे विद्वान न्यायालय के समक्ष *Mutual Divorce under section 13(B) of Hindu Marriage Act.* (जो की दोनों पक्षों द्वारा सामूहिक रूप से दाएर किया जाएगा) के मामले के *Admission* के समय सेंट्रल बैंक ऑफ इंडिया, डिमांड ड्राफ्ट Dated 09.08.2024, No. 148745 के माध्यम से किया जाएगा इसके अलावा द्वितीय पक्ष यह वचन देती है कि वह प्रथम पक्ष के खिलाफ उसके द्वारा दायर भरण-पोषण का मामला वापस लेगी, जो कि विद्वान पारिवारिक न्यायालय, सीवान के समक्ष लंबित भरण-पोषण का मामला संख्या 70/2024 है।

C. यह की कि द्वितीय पक्ष यह शपथ लेती है की वह अपने द्वारा दर्ज मामला वापस लेगी जो कि प्रथम पक्ष और उसके मित्र एवं परिवार के सदस्य अशोक कुमार चौधरी, मंजू देवी, प्रियंका कुमारी और अभिषेक कुमार चौधरी के खिलाफ भारतीय दंड संहिता की धारा 323, 379, 494, 498ए, 504, 406, 34



और दहेज प्रतिषेध अधिनियम की धारा 34 के तहत सीवान महिला थाना कांड संख्या 4/2024 के तहत दर्ज है। इसके अलावा यदि आवश्यक हुआ तो वह उपरोक्त प्राथमिकी को रद्द कराने के लिए न्यायालय में उपस्थित होगी।

D. यह की शेष 2,00,000/- रुपये (दो लाख रुपये) की राशि प्रथम पक्ष द्वारा आपसी सहमति से दायर किया गया विवाह विच्छेद केस के अंतिम निपटारे के समय तथा द्वितीय पक्ष द्वारा दर्ज आपराधिक मामला सीवान महिला थाना कांड संख्या 4/2024 के साथ दी जाएगी।

E. यह की प्रथम पक्ष, द्वितीय पक्ष के विरुद्ध अपने द्वारा पहले से दायर तलाक के ★ मामले को वापस ले लेगा, जो कि विद्वान पारिवारिक न्यायालय, भागलपुर के समक्ष लंबित वैवाहिक (तलाक) मामला संख्या 108/2023 है।

F. यह की कि प्रथम पक्ष द्वारा द्वितीय पक्ष को सारा भुगतान डिमांड ड्राफ्ट के माध्यम से करेगा।

G. यह कि राशि के लेन-देन के बाद दोनों पक्ष एक-दूसरे के विरुद्ध कोई दावा नहीं किया जाएगा और दोनों पक्ष एक-दूसरे की चल या अचल संपत्ति के विरुद्ध भविष्य में कोई दावा/भरण-पोषण नहीं करने का शपथ लेते हैं।

H. आज 12/8/24 को दोनों पक्षों द्वारा Civil Court, Siwan में सत्यापित और शपथ ली गई

अखिलेश कुमार चौधरी
12/08/2024
(प्रथम पक्ष के हस्ताक्षर)

रीमा कुमारी
12/8/24
(द्वितीय पक्ष के हस्ताक्षर)“

8. It would be apposite to reproduce para-13, 14,



15, 16 & 17 of the legal report of Hon'ble Supreme Court passed in the case of **Abhishek vs. State of Madhya Pradesh** reported in **2023 SCC Online SC 1083**, 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 and Ors. Vs. Bhajan Lal and Ors [(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 aforementioned factual and legal submissions and by taking note of fact as both the parties have decided to dissolve their marriage by way of mutual divorce against one-time settlement of Rs.12 lakhs for which, Rs. 10 lakhs already paid to O.P. No.2 by the petitioners, it appears that as on date, no dispute survives between the parties, therefore, continuing with present proceeding before learned trial court would only amount to abuse of the process of court of law.

10. Accordingly, the F.I.R. of Mahila P.S. Case No.4 of 2024 with all its consequential proceedings is hereby quashed and set aside.

11. The application stands allowed.

12. Let a copy of the judgment be sent to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27-02-2025
Transmission Date	27-02-2025

