

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3566 of 2022

Arising Out of PS. Case No.-282 Year-2019 Thana- GAYA KOTWALI District- Gaya

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1. Murshid Alam Son Of Abdul Mazid Resident Of Village - Samdani Gali, River Side3, Panchaiyiya Akahra, P.S.- Kotwali, Distt.- Gaya.
 2. Hasbun Nisa W/O Murshid Alam Resident Of Village - Samdani Gali, River Side3, Panchaiyiya Akahra, P.S.- Kotwali, Distt.- Gaya.
 3. Shabana Perween D/O Murshid Alam Resident Of Village - Samdani Gali, River Side3, Panchaiyiya Akahra, P.S.- Kotwali, Distt.- Gaya.
 4. Shereen Perween D/O Murshid Alam Resident Of Village - Samdani Gali, River Side3, Panchaiyiya Akahra, P.S.- Kotwali, Distt.- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sufia Khadiza W/o Mobin Alam Resident of Village - Samdani Gali, River Side3, Panchaiyiya Akahra, P.S.- Kotwali, Distt.- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Singh, Advocate
	:	Mr. S. Hafaz Ahmad, Advocate
For the Opposite Party/s	:	Mr. Madan Kumar, APP

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

5 03-02-2026 Heard learned counsel for the petitioners and learned APP for the State. However, no one appeared on behalf of the opposite party no.2, despite valid service of notice.

2. The present application has been filed for quashing of the order dated 14.09.2020 passed by the Court of learned Chief Judicial Magistrate, Gaya in G.R. No.3278/2019, arising out of Gaya Kotwali P.S. Case No.282 of 2019, whereby cognizance has been taken against the petitioners under Sections 504, 506, 498A/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.



3. The short facts of the case, as per the First Information Report, is that after marriage of the informant with son of petitioner no.1 on 25.12.2016, the demand for dowry and torture began at the hands of all the accused persons including the present petitioners.

4. The learned counsel for the petitioners has submitted that the case of Md. Mohiuddin Alam @ Pappu has already been dismissed as withdrawn. Thus, this petition survives only against petitioners no.1, 2, 3 and 4, i.e., the father-in-law, mother-in-law and two married sisters-in-law respectively.

5. Learned counsel for the petitioners submit that the petitioners have been falsely implicated in the present case under Section 498A of I.P.C. with general, omnibus and vague allegations although the case only involved a matrimonial discord between the husband and the wife and the falsity of the case has been to the extent that the petitioners no.4 and 5, who are not even residing along with opposite party no.2 have also been maliciously arrayed as accused in the present case.

6. Learned APP for the State has opposed the present application stating that a *prima facie* case has also been found against the present petitioners, as such, there is no illegality with



the order taking cognizance.

7. Coming to the complicity of the present petitioners, the allegations levelled against them of subjecting the informant to cruelty is totally vague, general and sweeping in nature. It has been laid down by way of catena of judgments that when family relations are sought to be brought within the ambit of criminal proceedings, the Court should be circumspect and judicious and should allow invocation of criminal proceedings only when there are specific allegation with supporting materials, which clearly constitute criminal offences. Matters which *per se* relate to matrimonial discord between the husband and the wife cannot and ought not to be brought within ambit of Section 498A of the I.P.C.. There is no doubt on the fact that importance has to be given to the victims of domestic violence, but all the family members and relatives ought not be brought within the ambit of criminal proceeding if no specific case or act has been carved out as against them.

8. The Hon'ble Supreme Court in the case of **Kahkashan Kausar vs. State of Bihar**, reported in (2022) 6 SCC 599, has considered all the earlier judgments right from the case of **Preeti Gupta and Anr. v. State of Jharkhand and Anr.**, reported in (2010) 7 SCC 667, laying down that all the members and relatives of the family against whom no specific allegations



have been carved out should not be prosecuted in a case under Section 498A of I.P.C. as an eventual acquittal also inflicts severe scars upon the accused.

9. Very recently, the Hon'ble Supreme Court in the case of **Dara Lakshmi Narayana and Ors. v. State of Telangana and Anr**, reported in **(2025) 3 SCC 735**, has also reiterated the fact that unnecessarily roping in of the family members and relatives of the husband by the opposite party no.2 in absence of specific accusation should not be allowed to continue and continuance of such malicious prosecution would only amount to an abuse of the process of the Court.

10. Taking the above-mentioned facts and circumstances into account, going through the records of this case and upon also considering the submissions made on behalf of the petitioners, this Court, being conscious of the growing tendency of implication of the other members of the family in a case under Section 498A of I.P.C. carrying the potential danger of further rupture of family bond, is of opinion that the complicity of the present petitioners who are the relatives of the husband of the opposite party no.2 should not be allowed to continue as the same would amount to an abuse to the process of law and cause grave miscarriage of justice, as such, the impugned order dated 14.09.2020 passed by the passed by the Court of learned Chief



Judicial Magistrate, Gaya in G.R. No.3278/2019, arising out of
Gaya Kotwali P.S. Case No.282 of 2019, is hereby quashed as
against petitioners no.1, 2, 3 and 4.

11. Accordingly, the present application stands allowed.

(Soni Shrivastava, J)

anand/-

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