

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5677 of 2019

Arising Out of PS. Case No.-1408 Year-2016 Thana- BHOJPUR COMPLAINT CASE
District- Bhojpur

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1. Vinay Shankar Pandey and Ors Akshyabar Pandey @ Akshwar Pandey R/O- Narayanpur, P.S.- Bihiya,
 2. Akshyabar Pandey @ Akshwar Pandey Son of Late Jai Kishun Pandey R/O -Village- Narayanpur, P.S. Bihiya.
 3. Vimla Devi Wife of Akshyabar Pandey @ Akshwar Pandey R/O -Village- Narayanpur, P.S. Bihiya.

... .. Petitioner/s

Versus

1. The State of Bihar and Anr Bihar
2. Kumari Archana Daughter of Dhanpat Shukla R/O- Village and P.O.- Shukulpura, P.S. Ara Mufassil.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bibhakar Tiwary
For the Opposite Party/s : Mr.Abhay Kumar

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 28-07-2026

Heard the parties.

2. That this application is preferred for quashing the order dated 25.5.2018 passed by the Court of Sub-divisional Judicial Magistrate, Bhojpur at Ara in complaint case no.1408 (C)/2016 whereby whereunder cognizance of the offence allegedly committed by the petitioners under sections 498A/34 of the Indian Penal Code and section 4



of the Dowry Prohibition Act has been taken.

3.That the prosecution case, as alleged in the petition of Complaint, is briefly enumerated herein under:-

i) The complainant namely, Archana Kumari filed Protest-cum-Complaint Case No.1408 (C)/2016 in the court of Sub-Divisional Judicial Magistrate, Bhojpur, Ara on 2.3.2016 alleging therein that she was married with the petitioner no.1 on 28.1.2013 according to Hindu Rites and rituals in which her father had gifted sum of Rs.7,50,000/- in cash and Rs.1,00,000/- through account transfer besides other articles worth Rs.80,000/-. The family of the petitioners demanded gold chain and motorcycle on the date of marriage itself. The marriage was however performed after much persuasion.

ii) That complainant further alleged that after marriage she went to her Matrimonial house where also she was pressurized to bring dowry. The complainant when requested family of the petitioners not to press for dowry demand, she was assaulted and tortured. The complainant



then informed her parents. The father of the complainant alongwith other persons when went to the matrimonial house of the complainant, they were also thrashed and were not allowed to meet her.

iii) The complainant further alleged that the family of the petitioners stopped providing meal to her. The father of the complainant then took her to her parental house. After two months the complainant went to her matrimonial house where she lived happily for two months. Thereafter the same old demand was repeated. The family of the petitioners snatched entire belongings of the complainant and ousted her. The complainant had been residing in her parents' house since 19.1.2014.

4. It is submitted by learned counsel appearing on behalf of petitioners that initially a complaint was registered by informant/O.P. No. 2 which was registered as complain case no. 834(c) of 2015 before learned Chief Judicial Magistrate, Bhojpur, Ara on 07.05.2015, which was sent to the S.H.O Mahila police station exercising power under Section 156(3) of the CrPC, wherein after



registering the FIR, as Bhojpur Mahila P.S. Case No. 75 of 2016 on 19.01.2016, the investigation was proceeded for the offence punishable under Sections 498A/34 of IPC and $\frac{3}{4}$ of the Dowry Prohibition Act. It is further submitted by learned counsel that the police after investigation in aforesaid, Bhojpur Mahila P.S. Case No. 75 of 2016 (Annexure- P/2) submitted closure/report final form against petitioners through chargesheet No. 51 of 2016 dated 29.02.2016, in which present protest petition was filed on which the present cognizance was taken. It is submitted that protest was treated as complaint bearing No. 1408(c) of 2016.

5. It is further argued by learned counsel for the petitioners that the petitioner No. 1 is the husband and rest of the petitioners are in-laws facing general and omnibus allegation. It is submitted that the complaint was filed by informant/O.P. No. 2 in retaliation of ex-parte divorce order which was passed by learned family court, Ara in Matrimonial Case No. 155 of 2015 dated 26.11.2016. It is pointed out that the said ex-parte order



despite of knowledge of complainant/O.P. No. 2 was never challenged by informant/O.P No. 2 and therefore, attained finality. It is pointed out that the informant/O.P No. 2 expressed her desire as not to continue her matrimonial life with petitioner no. 1 for the reason that her mindset was not matching with petitioner no.1 , which can be gathered safely from Annexure- P/4, which is undertaking/declaration of informant/O.P. No. 2. It is submitted that the informant/O.P.No. 2 claimed Rs. 4 lakh from petitioner No. 1 which he is ready to pay before this court or the learned trial court where maintenance proceeding is pending.

6. In view of aforesaid, it is submitted by learned counsel that continuing of present proceeding before learned trial court is only amount to abuse the process of court of law and therefore, the impugned cognizance order dated 25.05.2018 is fit to be set-aside/quashed.

7.In view of aforesaid, it would be apposite to reproduce the para no. 12 to 17 of Hon'ble Supreme Court as available through **Abhishek versus State of Madhya**



Pradesh [2023 SCC OnLine SC 1083].

"12. The contours of the power to quash criminal proceedings under Section 482 Cr. P.C. are well defined. In *V. Ravi Kumar v. State represented by Inspector of Police, District Crime Branch, Salem, Tamil Nadu* [(2019) 14 SCC 568], this Court affirmed that where an accused seeks quashing of the FIR, invoking the inherent jurisdiction of the High Court, it is wholly impermissible for the High Court to enter into the factual arena to adjudge the correctness of the allegations in the complaint. In *Neeharika Infrastructure (P). Ltd. v. State of Maharashtra* [Criminal Appeal No. 330 of 2021, decided on 13.04.2021], a 3Judge Bench of this Court elaborately considered the scope and extent of the power under Section 482 Cr. P.C. It was observed that the power of quashing should be exercised sparingly, with circumspection and in the rarest of rare cases, such standard not being confused with the norm formulated in the context of the death penalty. It was further observed that while examining the FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made therein, but if the Court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by this Court in *R.P. Kapur v. State of Punjab* (AIR 1960 SC 866) and *State of Haryana v. Bhajan Lal* [(1992) Supp (1) SCC 335], the Court would have jurisdiction to quash the FIR/complaint.

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 Bhajan Lal (supra), 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."

8. Learned counsel for informant/O.P. No.2 could not disputed the submission *qua* divorce and undertaking/declaration of O.P. No. 2 as not to continue her matrimonial life with petitioner no. 1 as submitted aforesaid by learned counsel for the petitioners.

9. In view of aforesaid factual submission and by taking note of fact as marriage of petitioner no. 1 with O.P. No. 2 already stands dissolved in 2016, which almost attained finality as it was never challenged by O.P. No. 2 coupled with the fact that informant/O.P. No. 2 expressed her desire as not to continue her matrimonial life with the petitioner in view of Annexure- P/4, as discussed aforesaid and moreover, the allegations *qua* committing mental and physical cruelty against the petitioner no. 2 and 3 are in-laws appears very much general and omnibus in nature, accordingly, this court is convinced enough that continuing of present criminal proceeding against these petitioners before the learned court would only amounting to abuse



the process of court of law, accordingly, the impugned cognizance order dated 25.05.2018 as passed by the court of Sub- Divisional Judicial magistrate, Bhojpur at Ara is hereby set-aside/quashed with all its consequential proceedings qua above named petitioners.

10. Accordingly, the present petition stands allowed.

11. Let the copy of the judgment be sent to learned trial court forthwith, with TCR, if any.

(Chandra Shekhar Jha, J.)

Aniket/-

AFR/NAFR	NAFR
CAV DATE	N/A
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