

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24153 of 2018

Arising Out of PS. Case No.-263 Year-2016 Thana- MADHEPURA COMPALINT CASE
District- Madhepura

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1. Bimal Kishor Jha S/o Late Ayodhya Nath Jha,
 2. Sushila Devi W/o Bimal Kishor Jha, Both resident of Vill.- Fuldovi, P.S.- Falka , District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dolly Devi W/o Hare Krishna @ Hare Krishan Bastia D/o Late Sunder Kant Mishra, R/o Vill.- Rampur Khora, P.S.- Uda Kishunganj, District- Madhepura.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bimal Kumar, Advocate
For the State	:	Mr. Ashok Kumar Singh 1, A.P.P.
For the O.P. No. 2	:	Mr. Jibendra Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

9 19-02-2026 1. Heard learned counsel for the petitioners, learned A.P.P. for the State as well as learned counsel for the opposite party no.2 (O.P. No.2).

2. The present application has been filed on behalf of the petitioners for quashing of the order dated 22.07.2017 passed in Complaint Case No.263 of 2016 by the learned Sub-Divisional Judicial Magistrate, Udakishunganj (hereinafter referred to as 'Magistrate') wherein cognizance for offences under Section 498A and 34 of the Indian Penal Code, 1860 (hereinafter referred to as 'I.P.C.') and under Section 4 of the



Dowry Prohibition Act, 1961 has been taken against the petitioners, who are father-in-law and mother-in-law of the O.P. No.2, and also against husband of O.P. No.2.

3. The prosecution story, in brief, is that the marriage of complainant, Dolly Devi (O.P. No. 2) was solemnized with Hare Krishan Batsa (son of the petitioners herein) on 22.04.2015. At the time of marriage and *bidai*, her parents had provided customary gifts and articles. It is alleged that after residing in her matrimonial home for about two months without any dispute, the accused persons, including her husband and the petitioners (father-in-law and mother-in-law), began subjecting her to cruelty and harassment in connection with a demand for a Nano car and a sum of Rs. 3,00,000/-. Upon expressing her inability to fulfil the said demand through her parental family, she was allegedly abused and assaulted. The O.P. No.2 further alleged that her family members, when informed, visited her matrimonial home but were also subjected to assault. Moreover, her belongings were forcibly taken away, her signatures were obtained on blank stamp papers under threat, and she was ultimately driven out of her matrimonial home. Being oppressed with the aforementioned torture, O.P. No.2 filed a complaint case before the learned Magistrate.



4. On the basis of the said allegations, the learned Magistrate, after examination of O.P. No.2 on solemn affirmation and inquiry under Section 202 Cr.P.C., *vide* impugned order dated 22.07.2017, took cognizance for the offences punishable under Section 498A of the I.P.C., and under Section 4 of the Dowry Prohibition Act against the three accused persons, namely, Hare Krishan Batsa (son of the petitioners herein), Bimal Kishor Jha (petitioner no.1) and Sushila Devi (petitioner no.2). Petitioners, being aggrieved by the said order of cognizance against them, have preferred this application praying to quash the impugned order dated 22.07.2017 passed against them.

5. Learned counsel for the petitioners submits that the petitioners, being the aged father-in-law and mother-in-law of the O.P. No.2, have been falsely implicated in the present case due to matrimonial discord between the O.P. No.2 and her husband (co-accused). It is submitted that the allegations made in the complaint petition are general and omnibus in nature, lacking specific particulars as to the active role attributed to the petitioners. Learned counsel further submitted that the petitioners are aged about 80 years and 75 years respectively, residing separately, and have no direct concern with the day-to-



day matrimonial affairs of the O.P. No.2 and her husband.

6. Learned counsel further submits that the complaint has been instituted by O.P. No.2 with ulterior motive based on concocted and fabricated story. It is submitted that prior to the institution of the complaint case by O.P. No.2, the husband of O.P. No. 2 had already approached the competent court by filing a *Sanha* petition, bearing I.P. No. 2464 of 2015 dated 09.07.2015, before the learned Chief Judicial Magistrate, Katihar, bringing on record the alleged aggressive and unruly behaviour of the O.P. No.2 towards her husband and in-laws. Learned counsel submitted that the said step was taken with a *bonafide* intention to safeguard the matrimonial relationship and to place the true state of affairs before the court. It is submitted that the filing of the said petition clearly demonstrates that the dispute between the parties was already subsisting and that the Complaint Case No. 263 of 2016 has been lodged subsequently as a counterblast to the earlier proceedings initiated by the husband (co-accused).

7. Learned counsel for the petitioners submits that the O.P. No.2 herself left the matrimonial house and subsequent thereto the son of petitioners had filed a matrimonial suit for restitution of conjugal rights under Section 9 of the Hindu



Marriage Act wherein she did not even appear.

8. Learned counsel for the petitioners further submits that the learned Magistrate, without proper application of judicial mind and despite contradictions in the statements of the inquiry witnesses, mechanically took cognizance against the petitioners. Moreover, learned counsel put his reliance on various judgments of the Hon'ble Supreme Court including *Preeti Gupta v. State of Jharkhand*, reported in (2010) 7 SCC 667; *Geeta Mehrotra and Anr. v. State of Uttar Pradesh and Anr.*, reported in (2012) 10 SCC 741; *Pritam Ashok Sadaphule and Ors. v. State of Maharashtra and Anr.*, reported in (2015) 11 SCC 769; and *Achin Gupta v. State of Haryana and Anr.*, reported in (2025) 3 SCC 756 wherein it has been observed that owing to the surge in matrimonial disputes in recent times, the instances of false implication have markedly increased and courts must exercise due circumspection while proceeding against relatives specially the allegations are omnibus. It is lastly submitted that there is no *prima facie* case made out against the petitioners and thus, prayed that the impugned order dated 22.07.2017 taking cognizance against the petitioners be quashed in exercise of the inherent jurisdiction of this Court.

9. Per contra, learned counsel for O.P. No. 2



submits that the complaint petition discloses allegations of cruelty and dowry demand against the accused persons including the petitioners, and that the learned Magistrate has rightly taken cognizance after due inquiry under Section 202 of the Cr.P.C. It is submitted that the O.P. No.2 was subjected to continuous mental and physical harassment on account of unlawful demand of a Nano car and Rs. 3,00,000/-, and upon her inability to fulfil such demand, she was abused, assaulted, and ultimately driven out of her matrimonial home. Learned counsel further submits that the allegations are not vague or general in nature but disclose active participation of the petitioners in the commission of the alleged offence. It is further submitted that the plea of false implication and counterblast, as sought to be projected by the petitioners, is a matter of defence which cannot be adjudicated in a petition for quashing at the threshold stage. The filing of any *Sanha* petition or matrimonial suit by the husband does not dilute the seriousness of the allegations made in the complaint. It is submitted that at the stage of cognizance, the Court is only required to see whether a *prima facie* case is made out, and meticulous examination of defence materials is impermissible. It is, moreover, submitted that the stage of the case in the court concerned has been



changed as the examination of witnesses before charge has already closed *vide* order dated 16.07.2019 passed by the learned Magistrate. Therefore, it is submitted that the present application be dismissed and the criminal proceeding be allowed to continue in accordance with law.

10. Learned A.P.P. for the State supports the impugned order of cognizance and submits that at the stage of taking cognizance, the Court is required to ascertain whether the complaint and the materials collected during inquiry disclose a *prima facie* case, and not to meticulously evaluate the truthfulness or otherwise of the allegations. Learned A.P.P. further submits that the allegations pertain to offences under Section 498A of the I.P.C. and Section 4 of the Dowry Prohibition Act, which are serious in nature and relate to cruelty and unlawful demand of dowry within the matrimonial home. Accordingly, it is submitted that no interference is warranted at this stage and the application for quashing the impugned Order deserves to be dismissed.

11. Having heard the learned counsel for petitioners, learned counsel for the O.P. No.2 as well as the learned A.P.P. appearing for the State, and upon perusal of the materials available on record, it appears that admittedly the O.P.



No.2 was married to Hare Krishan Batsa (son of the petitioners) on 22.04.2015 according to Hindu rites and rituals and they started their matrimonial life. After about five months of matrimonial cohabitation, the husband of O.P. No.2 file a *Sanha* Petition bearing I.P. No. 2464 of 2015 alleging aggressive attitude of O.P. No.2 towards her in-laws (petitioners) and her husband (co-accused). Subsequent to which O.P. No.2 filed the Complaint Case No.263 of 2016 on 14.09.2016 against her husband and the petitioners along with other in-laws alleging the aforementioned allegations, wherein the learned Magistrate took cognizance of the offences vide the impugned order dated 22.07.2017.

12. It is pertinent to note that the Court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, *prima facie*, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute.

13. The Hon'ble Supreme Court, time and again, has also made the stance very clear with respect to the criminal allegations arising out of matrimonial discords. The Hon'ble



Apex Court in ***Preeti Gupta (supra)*** has observed as under:

“32. It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and



protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. 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. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection.”

14. The Hon'ble Supreme Court in *Geeta*

Mehrotra (supra) has observed as under:

“20. Coming to the facts of this case, when the contents of the FIR are perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names which have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

21. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao v. L.H.V.



Prasad [G.V. Rao v. L.H.V. Prasad, (2000) 3 SCC 693 : 2000 SCC (Cri) 733] wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that : (SCC p. 698, para 12)

‘12. There has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different courts.’

The view taken by the Judges in this matter was that the courts would not encourage such disputes.”

15. The Hon’ble Supreme Court in *Achin Gupta*



(*supra*) has observed as under:

“35. In one of the recent pronouncements of this Court in Mahmood Ali v. State of U.P. [Mahmood Ali v. State of U.P., (2023) 15 SCC 488] , authored by one of us (J.B. Pardiwala, J.), the legal principle applicable apropos Section 482CrPC was examined. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482CrPC 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.”

(emphasis supplied)

16. Having considered the rival submissions and upon perusal of the complaint petition, this Court finds that in order to attract the provisions of Section 498A of the I.P.C., the allegations must *prima facie* disclose “cruelty” within the



meaning of the *Explanation* to the said Section, namely, wilful conduct of such nature as is likely to cause grave injury or harassment with a view to coercing fulfilment of an unlawful demand. Similarly, for constituting an offence under Section 4 of the Dowry Prohibition Act, there must be a specific and identifiable demand of dowry attributable to the accused. In the present case, though the complaint contains allegations of demand of a Nano car and Rs. 3,00,000/- and of torture by the accused persons including the petitioners, the allegations so far as these petitioners, who are the aged father-in-law and mother-in-law, are concerned, appear to be general and omnibus in nature without specific attribution of overt acts or distinct role demonstrating active participation in the alleged cruelty or dowry demand. The complaint attributes the demand collectively to all accused persons without detailing the particular conduct of the petitioners or the circumstances in which such demand was allegedly made by them. The inquiry statements also do not assign any specific act to the petitioners beyond reiteration of general allegations. Thus, in absence of specific material disclosing the essential statutory ingredients against the petitioners, it can be said that a *prima facie* case under Section 498A of I.P.C. and Section 4 of the Dowry



Prohibition Act is not made out against them.

17. Now, the law with respect to quashing of criminal proceeding is now well settled that while considering a prayer to quash the criminal complaint and the consequential proceedings at the threshold, the Court is required to examine whether the allegations made in the complaint along with materials in support thereof make out a *prima facie* case to proceed against the accused or not. The reference to the same has been made by the Hon'ble Apex Court in various judgments including *State of Haryana and Ors. v. Bhajan Lal and Ors.*, reported in *1992 Supp (1) SCC 335* and *Pradeep Kumar Kesarwani v. State of Uttar Pradesh & Anr.*, reported in *2025 SCC OnLine SC 1947*.

18. Applying the aforesaid legal principles to the facts of the present case, this Court finds that the continuation of the criminal proceeding against the present petitioners would amount to an abuse of the process of the Court. The materials available on record do not disclose any specific or *prima facie* incriminating act attributable to these petitioners so as to satisfy the essential ingredients of the offences alleged. The allegations are sweeping in nature and appear to have been made in a mechanical manner against all family members, without



delineating their individual roles. The petitioners are aged in-laws, residing separately, and no material has been brought on record to demonstrate their direct involvement in the alleged demand or acts of cruelty. Moreover, the background circumstances, including prior matrimonial discord and initiation of proceedings by the husband, lend support to the contention that the present prosecution is a manifestation of strained marital relations rather than a case supported by concrete and specific allegations against the petitioners. In such circumstances, permitting the prosecution to proceed against them would not subserve the ends of justice and would result in unnecessary harassment. Hence, the impugned order, insofar as it relates to the present petitioners, is liable to be set aside.

19. Accordingly, this Court is of the considered view that the impugned order dated 22.07.2017, passed by the learned Sub-Divisional Judicial Magistrate, Udakishunganj, in Complaint Case No. 263 of 2016, taking cognizance under Section 498A of the I.P.C. and Section 4 of the Dowry Prohibition Act against the petitioners cannot be sustained in the eye of law. The criminal proceeding, so far as it relates to these petitioners, is hereby **quashed**.

20. The present application is, accordingly,



allowed.

21. It is further clarified that the observations made hereinabove are confined to the adjudication of the present application for quashing and shall not be construed as an expression on the merits of the case against the other accused person and the learned Trial Court shall proceed independently and uninfluenced by any observation made in this order, in accordance with law. The application stands allowed to the extent indicated above.

22. Let a copy of this order be communicated to the learned Trial Court forthwith.

(Sunil Dutta Mishra, J)

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