

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.16948 of 2023

Arising Out of PS. Case No.-160 Year-2020 Thana- KASIMBAZAR District- Munger

1. Sushma Pandey Wife Of Sri Ravi Narayan Pandey R/O C/O Saleswar Prasad Sinha, House No.1, West Of Salam, Kankarbagh, Patna, Sampatchak, Lohia Nagar, Patna 800020
2. Ravi Narayan Pandey Son Of Janardhan Pandey R/O C/O Saleswar Prasad Sinha, House No.1, West Of Salam, Kankarbagh, Patna, Sampatchak, Lohia Nagar, Patna 800020
3. Archana Mishra Wife Of Dhananjay Kumar R/O C/O Ranjit Singh, New Purandarpur, Near Old Jakkanpur Police Station, Patna, Phulwari, Patna 800001
4. Dhananjay Kumar Son Of Nagendra Nath Mishra R/O C/O Ranjit Singh, New Purandarpur, Near Old Jakkanpur Police Station, Patna, Phulwari, Patna 800001

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kumari Arunima wife of late Arun kumar mishra, d/o Surendra Chandra Pathak presently r/o mohalla- puraniganj (jamalpur road), p.s.- Kasim bazar, p.o. And district- munger

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 19092 of 2023

Arising Out of PS. Case No.-160 Year-2020 Thana- KASIMBAZAR District- Munger

1. Kranti Kumar Mishra s/o late mukti nath mishra r/o quarter no. 166(slum), p.s.-kankarbagh,dist.- patna.
2. Motijhari Mishra @ mothijhari devi w/o shri kranti kumar mishra r/o quarter no. 166(slum), p.s.-kankarbagh, dist.-patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kumari Arunima Late Arun Kumar Mishra R/O Mohalla Puraniganj(Jamalpur Road), P.S- Kasim Bazar, P.O And District- Munger.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 16948 of 2023)

For the Petitioner/s : Ms.Aditi Hansari, Advocate
Mr.Nikhil Kumar Agrawal, Advocate
Mr. Pratik Raj, Advocate

For the State : Mr.Binod Kumar, APP

For the O.P. No. 2 : Mr. Harish Kumar, Advocate

(In CRIMINAL MISCELLANEOUS No. 19092 of 2023)

For the Petitioner/s : Ms.Aditi Hansari, Advocate
Mr.Nikhil Kumar Agrawal
Mr. Pratik Raj, Advocate

For the State : Mr.Ramchandra Sahni, A.P.P.

For the O.P. No. 2 : Mr. Harish Kumar, Advocate

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA



ORAL JUDGMENT

Date : 05-02-2026

Both the applications are being heard together as they arise out of the common order of cognizance dated 14.09.2020 passed by the learned Sub-Divisional Judicial Magistrate, Munger.

2. Heard Ms. Aditi Hansaria, the learned counsel for the petitioners assisted by Mr. Nikhil Kumar Agrawal and Mr. Pratik Raj, the learned advocates and Mr. Binod Kumar and Ramchandra Sahni, the learned A.P.P for the State and Mr. Harish Kumar, the learned counsel appearing for the O.P. No. 2.

3. The present applications are being filed for quashing the order dated 14.09.2020 passed by the learned Sub-Divisional Judicial Magistrate, Munger in connection with Kasimbazar P.S Case No. 160 of 2020 whereby cognizance has been taken under sections 341, 323, 379, 498A of the Indian Penal Code, 1860 (hereinafter referred to as IPC) and sections 3 and 4 of The Dowry Prohibition Act, 1961.

4. All the petitioners in aforesaid two applications happen to be the in-laws of the opposite party no. 2 (Informant). Petitioner no. 1 and 3 are the sisters-in-law while petitioner no. 2 and 4 are the brothers-in-law of the Informant respectively in Cr. Misc. No. 16948 of 2023; whereas Cr. Misc. No. 19092 of 2023 has been preferred by the father-in-law and the mother-in-law of the Informant who are petitioner no. 1 and petitioner no. 2 respectively.

5. The allegations levelled by the Informant in brief is that her marriage was solemnized on 06.05.2007 with Late Arun Kumar



Mishra as per the Hindu rites and rituals. The Informant states that soon after the marriage she was treated with cruelty, abused and beaten by the petitioners hereinabove and the situation did not ameliorate even after she told her husband about this and was resolved only after the intervention of her parents. She further alleges that even while she was pregnant, she was forced to deliver her child at her parents' home because of a displeasing situation at her matrimonial home. Further, her father-in-law asked her for the jewellery she brought from her parental home with an estimated worth of Rs. 7 lakhs, took her clothes and gave it to her daughters and further demanded a sum of Rs. 5 lakhs as dowry and a motorcycle for his son-in-law, upon refusal of which, she was beaten and the jewellery worn by her was taken by the father-in-law. Subsequently, when the financial condition of the husband of the Informant improved, the same was distastefully noted by the in-laws. She has further called her mother-in-law and sisters-in-law to be of objectionable character. The Informant asserts that the in-laws were mentally harassing her husband intending to cause harm to his life as he was a heart patient and during the covid-19 lockdown the Informant's husband felt discomfort and needed to be admitted in a hospital in emergency however none of the in-laws helped, and thereafter the Informant had to alone take her husband to hospital wherein he died of cardiac arrest on 27.04.2020. The Informant gave a written report on 01.05.2020 and a formal First Information Report (hereinafter referred to as F.I.R.) bearing Kasimbazar P.S. Case No. 160/2020 was lodged on 22.06.2020 against the petitioners named above, based thereupon.



6. Learned Counsel for the Petitioners submits that it would evident from the bare perusal of the F.I.R. that the allegations made therein are by and large, general and omnibus in nature and are baseless with no substantiation of the same and are mechanically adjudged by the court below and the cognizance therein has been taken without the application of judicial mind. The learned counsel has further pointed out the fact that the marriage was solemnized in the year 2007 and the husband of the Informant (O.P. no. 2) died in the year 2020, i.e., after 13 years of marriage, yet the Informant never filed a legal complaint during his lifetime rather, merely four days after the death of the informant's husband and the son of the petitioner no 1 and 2 of Cr. Misc. 19092/2023, the written report dated 01.05.2020, was filed with oblique motive and the F.I.R. based on the same, was lodged on 22.06.2020 after almost 2 months and no convincing explanation for the same was tendered. The learned counsel also submits that the brothers-in-law and the sisters-in-law live separately from the Informant from even before the marriage of the informant and have no concern with their day-to-day affairs. Furthermore, the allegations against the father-in-law, about 80 years of age and the mother-in-law are also false, baseless and absurd as they are very old persons living in a government rented quarter and the father-in-law is completely bed ridden and suffering from paralysis. It was also submitted that the father-in-law of the Informant executed a gift deed, duly registered in the name of his grandson Arunesh Mishra (Informant's son) where she is residing and even earning rent from a portion thereof. Help was also extended by



providing substantial amount of money to the Informant and her husband to enable them to purchase a piece of land which duly shows his fondness towards his grandson and the Informant and her husband. The learned counsel further submits that the penal provisions under which the F.I.R. has been filed do not stand true against the petitioners and the bare perusal of the F.I.R. itself will prove that none of the essential ingredients of the alleged sections are met, and the allegations are baseless with an intention to extort money from the petitioners which has been done under the master mind of the Informant's father who happens to be an advocate himself.

7. Per Contra, the learned APP for the State and the learned counsel appearing on behalf of the opposite party no. 2 have vehemently opposed the quashing of the impugned order taking cognizance on the ground that a prima facie case is made out against the above named petitioners and hence, there is no illegality in the order impugned, as such, it warrants no interference. Learned counsel has additionally submitted that the informant is a widow, as such, the other family members are responsible for the cruelty meted out to her.

8. Having heard the rival contentions of learned counsels for the parties and upon perusal of records, it appears that the allegations levelled by the Informant against the petitioners named above are general and omnibus in nature, and no material evidence to support the same has been placed before this Court. It is also noted that the Informant, although has been married for 13 years, yet never attempted to file a complaint before any authority and has filed this written report



merely after 4 days of the death of her husband and the F.I.R. was lodged on 22.06.2020, after almost 2 months upon the said report. Upon the perusal of the F.I.R. it is also noted that the Informant has not mentioned any specific date or time period for the alleged occurrence, as such, the same also suffers from the vice of vagueness. Before going on to the law laid down by way of various judicial pronouncements made by the Hon'ble Apex Court with regard to criminalizing domestic disputes without specific allegations and credible materials to support the same, it would be first necessary to adjudicate on the issue as to whether the allegations made in the F.I.R. make out a case under section 498A of the IPC. At this stage, it would be relevant to quote the provision of section 498A of the IPC which is as follows :

"498A. Husband or relative of husband of a woman subjecting her to cruelty.- Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.- For the purpose of this section, "cruelty" means-

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is



*on account of failure by her or any person related
to her to meet such demand."*

9. From a bare perusal of the above-mentioned provision, it would be apparent that the said provision has been divided into two parts wherein the first part deals with any wilful conduct being of such nature likely to drive the woman to commit suicide or to cause grave injuries or danger to her life. The assertions made in the F.I.R. do not make out a case which have such serious and disastrous consequences leading the woman to commit suicide or to cause grave injury upon her as no complaint was made till thirteen years of marriage. The second part of the provision, dealing with harassment with a view to coercing her for meeting any unlawful demand for property also needs to be established by a series of acts to constitute harassment in its literal meaning and spirit. Merely making reference to some demands being made from the informant and her jewellery and clothes being taken, would not amount to harassment and cruelty as contemplated under section 498A of the IPC.

10. Coming to the question of complicity of these petitioners, the allegations of subjecting the informant to any torture, is totally vague, general and omnibus as also sweeping in nature. It has been laid down by several judicial pronouncements that when the family relationships are sought to be brought within the ambit of criminal proceedings, the courts should be circumspect and judicious and should allow invocation of criminal processes only when there are specific allegations with supporting materials which clearly constitute criminal offences. All acts of a dissatisfied and disgruntled wife or daughter-in-



law, cannot be brought within the purview of section 498A of the IPC, as such, the courts have to be extremely careful and cautious while dealing with such cases by strictly examining whether there are specific allegations with instances against the perpetrators as against generalised allegations. There is no doubt about the fact that importance has to be given to the victims of domestic violence, but all the family members and relatives ought not to be brought within the ambit of criminal prosecution in a general and sweeping manner.

11. The Hon'ble Supreme Court, after having considered all earlier judgments, in the case of ***Kahkashan Kausar & Ors. Vs State of Bihar & Ors*** reported in ***(2022) 6 SCC 599***, rendered in connection with quashing of prosecution against relatives with generalized allegations, held that such persons ought not to go through the rigors of the prosecution and trial as an eventual acquittal also inflicts severe scars upon the accused. Paragraph 21 of the above-mentioned judgment rendered by the Hon'ble Apex Court in ***Kahkashan Kausar*** (supra) is being quoted hereunder:

"21. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the appellant-accused, it would be unjust if the appellants are forced to go through the tribulations of a trial i.e. general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this Court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars



upon the accused, and such an exercise must, therefore, be discouraged.”

12. This Court would also gainfully refer to the recent case of ***Dara Laxmi Narayana Vs. the State of Telangana (2025) 3 SCC 735*** wherein the Hon'ble Apex has made it clear that family members of the husband of the informant ought not to be unnecessarily roped into criminal proceedings arising out of matrimonial discord. It was further held that in a case where the allegations are totally bereft of specific accusations particularly in the background that the relatives are even staying separately from the informant and her husband, allowing such malicious and motivated prosecution to continue would amount to an abuse of the process of the court. The above-mentioned judgment rendered by the Hon'ble Supreme Court has been noticed and reiterated in the recent case of ***Mange Ram Vs State of Madhya Pradesh & Anr. (2025) INSC 962*** to hold that continuation of the criminal proceedings against family members, especially in the absence of specific and proximate allegations, serves no legitimate purpose and in appropriate cases the power to quash such proceedings is essential to uphold fairness and bring about a quietus to personal disputes.

13. The adverse effects of criminalizing of domestic disputes without specific allegations to support the same have also been very recently considered by the Hon'ble Supreme Court in the case of ***Geddam Jhansi & Anr. Vs. State of Telangana & Anr.*** reported in ***2025 SCC Online SC 263*** where their lordships have also noticed a growing tendency to implicate other members of the family who are not connected with the allegation of harassment and torture and a further



tendency to exaggerate allegations giving them a criminal colour.

Paragraphs 31, 32 and 39 of the above-mentioned case of **Geddam Jhansi** (supra) are being quoted hereunder:-

"31. Invoking criminal process is a serious matter with penal consequences involving coercive measures, which can be permitted only when specific act(s) which constitute offences punishable under the Penal Code or any other penal statute are alleged or attributed to the accused and a prima facie case is made out. It applies with equal force when criminal laws are invoked in domestic disputes. Criminalising domestic disputes without specific allegations and credible materials to support the same may have disastrous consequences for the institution of family, which is built on the premise of love, affection, cordiality and mutual trust. Institution of family constitutes the core of human society. Domestic relationships, such as those between family members, are guided by deeply ingrained social values and cultural expectations. These relationships are often viewed as sacred, demanding a higher level of respect, commitment, and emotional investment compared to other social or professional associations. For the aforesaid reason, preservation of family relationship has always been emphasised upon. Thus, when family relationships are sought to be brought within the ambit of criminal proceedings rupturing the family bond, courts should be circumspect and judicious, and should allow invocation of



criminal process only when there are specific allegations with supporting materials which clearly constitute criminal offences.

32. We have to keep in mind that in the context of matrimonial disputes, emotions run high, and as such in the complaints filed alleging harassment or domestic violence, there may be a tendency to implicate other members of the family who do not come to the rescue of the complainant or remain mute spectators to any alleged incident of harassment, which in our view cannot by itself constitute a criminal act without there being specific acts attributed to them. Further, when tempers run high and relationships turn bitter, there is also a propensity to exaggerate the allegations, which does not necessarily mean that such domestic disputes should be given the colour of criminality.

39. Under these circumstances, for the reasons discussed above, we are satisfied that the appellants have been able to make out a case for interference in these proceedings qua the present appellants as in our opinion no prima facie case has been made out against the appellants to continue with the criminal proceedings against them and allowing these to continue would amount to abuse of the process of the law."

14. The Hon'ble Apex Court in the abovementioned case has also held that every case of domestic violence will depend on the peculiar facts of the said case. In the present case, the thirteen years



delay in filing the FIR as against allegation of torture meted out soon after marriage, makes it suspicious, pointing out towards the same being filed for extraneous reasons. Moreover absurd allegations pertaining to objectionable character of petitioners, ever mother-in-law, would be far from constituting an offence u/s 498A IPC. Further, allegations of demand of certain articles, after several years of marriage, also appears to be suspect. This court also notices the timing of filing the present case, which was barely four days after death of the informant's husband and the fact that while the petitioners of Cr. Misc. No. 16942/2023 have been residing separately since long, the petitioners of Cr. Misc. No. 19092/2023 are extremely old and ailing persons, father-in-law even bed-ridden on account of age and paralysis. The other offences of theft, hurt and wrongful restraint is also not made out in the backdrop of the delay and the informant's own admission of staying at her parental house at Munger where she lodged the case with absurd apprehension that her children would have been administered poison by her mother-in-law.

15. The Hon'ble Supreme Court, in the case of *Salib @ Shalu vs. State of Uttar Pradesh & Ors.* reported in **2023 (20) SCC 194** has held that it is not enough to look into averments made in F.I.R./ Complaint as they could be result of good drafting, but the Court owes a duty to look into attending circumstances in cases involving issues of wreaking vengeance. Similar view has been reiterated in the case of *Iqbal & Ors. Vs. State of Uttar Pradesh & Ors.* reported in **(2023) 8 SCC 734**, where the grounds of challenge related to frivolous/



vexatious proceedings.

16. Considering the case in its entirety, which is replete with absurdity of allegations including the general and sweeping nature of the allegations made in the F.I.R. as also non-pointing of materials in the order taking cognizance resulting in finding of *prima facie* case and also keeping the law laid down by the Hon’ble Apex Court in consideration, this court is of the view that continuance of such vexatious criminal proceedings against the present petitioners would amount to abuse of the process of law and cause grave miscarriage of justice, as such, the order dated 14.09.2020 passed by the Court of S.D.J.M., Munger in connection with Kasimbazar P.S. Case No. 160 of 2020 whereby cognizance has been taken against the petitioners, and any prosecution arising therefrom, stands quashed. It goes without saying that other alternative remedies with regard to share in the property etc. are always open for contest.

17. Accordingly, both the applications being Cr. Misc. No. 16948 of 2023 and Cr. Misc. No. 19092 of 2023 stand allowed.

(Soni Shrivastava, J)

Vashudha/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	10.02.2026
Transmission Date	NA

