IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24085 of 2019

CNR No. BRHC010252852019

Arising Out of PS. Case No.-2702 Year-2011 Thana- WEST CHAMPARAN COMPLAINT District- West Champaran

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1. Afroj Alam Son of Late Sarfuddin Mian Resident of Village - Maldahiya, P.S.- Shikarpur, District - West Champaran.
2. Afsana Khatoon Wife of Afroj Mian Resident of Village - Maldahiya, P.S.- Shikarpur, District - West Champaran.
3. Saiyada Khatoon Wife of Late Sarfuddin Mian Resident of Village - Maldahiya, P.S.- Shikarpur, District - West Champaran.
4. Timal Khan @ Najmuddin @ Najmuddin Khan Son of Farid Khan Resident of Village - Maldahiya, P.S.- Shikarpur, District - West Champaran.
5. Jobaida Khatoon @ Jaivaida Khatun Wife of Timal Khan @ Nejamudin Miya Resident of Village - Maldahiya, P.S.- Shikarpur, District - West Champaran.
6. Firoj Alam Son of Late Sarfuddin Mian Resident of Village - Maldahiya, P.S.- Shikarpur, District - West Champaran.
7. Saddam Hussain Son of Timal Khan @ Najmuddin Khan Resident of Village - Maldahiya, P.S.- Shikarpur, District - West Champaran.

... ... Petitioners

Versus

1. The State of Bihar
2. Afsana Khatoon Wife of Prawej Alam D/O Bali Ahmad, Resident of Village - Maldahiya, P.S.- Shikarpur, District - West Champaran.

... ... Opposite Parties

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Appearance :
For the Petitioners : Mr. Sanjeev Kumar
For the Opposite Parties : Mr. Anil Kumar Singh No.1, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT
Date : 29-10-2026

Heard the parties.

2. The present application has been filed invoking the inherent jurisdiction of this Court for quashing the order dated 06.10.2018 passed by the learned Sub-Divisional Judicial Magistrate, Bettiah, West Champaran, in S.C. No. 350 of 2019, corresponding to S.C. No. 407 of 2018, arising out of Complaint Case No. 2702-C of 2011, whereby

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the prayer of the petitioners for discharge under Section 245 of the Code of Criminal Procedure, 1973, has been rejected.

3. The prosecution case, in brief, is that the complainant filed Complaint Case No. 2702-C of 2011 on 14.11.2011, alleging that she was married to accused, Prawej Alam, in the year 2004 according to Muslim rites and customs. At the time of marriage, cash, ornaments, furniture and other articles were allegedly given to her.

4. It is further alleged that, after marriage, the complainant went to her matrimonial home and gave birth to two daughters, who were then aged about four years and two years. Thereafter, accused nos. 1 to 8 allegedly started subjecting her to torture in connection with a demand of Rs. 1,00,000/- for enabling her husband to start a business. The complainant allegedly informed her father about the demand, but he expressed his inability to fulfil it. According to the complaint, the accused persons refused to keep her at the matrimonial home until the demand was fulfilled.

5. It is further alleged that, on 12.11.2011, the accused persons attempted to kill the complainant. However,

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upon her assurance that she would try to arrange the money through her father and upon the intervention of neighbours, she was ultimately turned out of her matrimonial home.

6. After inquiry, the learned Sub-Divisional Judicial Magistrate, Bettiah, West Champaran, by order dated 16.08.2012, took cognizance of the offences under Section 498A of the IPC and the relevant provisions of the D P Act against the accused persons, excluding Prateek Alam, who is not a petitioner in the present case.

7. The complainant, her mother and her uncle were examined as witnesses in the evidence before charge. According to the petitioners, their depositions do not disclose any specific allegation against them, and the principal allegations are directed against the husband of the complainant.

8. On 21.05.2018, the petitioners filed an application under Section 245 of the CrPC seeking their discharge from the case. Subsequently, on 10.08.2018, the complainant filed an application seeking framing of charges against the accused persons. The petitioners contend that

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even in the said application, no specific role was attributed to them.

9. The petitioners are the in-laws of the complainant. They contend that they have been implicated merely because of their relationship with the husband and that no material has been brought on record to justify proceeding against them. However, the learned court below, by the impugned order dated 06.10.2018, rejected their prayer for discharge.

10. Learned counsel for the petitioners submits that the allegations in the complaint are general and omnibus in nature and that no specific act of cruelty or harassment has been attributed to the petitioners. It is further submitted that the evidence recorded before charge does not disclose sufficient material to proceed against them.

11. Learned counsel also submits that the complaint petition is not supported by an affidavit, contrary to the safeguards emphasised by the Hon'ble Supreme Court in ***Priyanka Srivastava and Another v. State of Uttar Pradesh and Others, reported in (2015)6 SCC 287***. It

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is contended that the continuation of the criminal proceeding against the petitioners, in the absence of specific allegations and supporting material, would amount to an abuse of the process of the Court.

12. Despite service of notice, the informant has not appeared before this Court.

13. Having considered the submissions and the materials available on record, this Court finds that the principal question requiring consideration is whether the criminal proceeding against the petitioners can be permitted to continue when they are the in-laws of the complainant and no specific allegation or individual role has been disclosed against them.

14. Reliance is placed on ***Abhishek v. State of Madhya Pradesh, reported in 2023 SCC OnLine SC 1083***, where the Hon'ble Supreme Court emphasised that criminal proceedings arising out of matrimonial disputes must be examined carefully where relatives of the husband have been implicated through general and omnibus allegations. Mere relationship with the husband cannot, by

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itself, justify criminal prosecution. The allegations must disclose the necessary ingredients of the alleged offence and a sufficient factual basis for proceeding against the person concerned.

15. The principle laid down in the aforesaid judgment is relevant to the facts of the present case. The petitioners are the in-laws of the complainant, and the materials placed before this Court do not disclose any specific act of cruelty, harassment or dowry-related demand attributable to them individually. The allegations, as presented, are directed principally against the husband of the complainant. The mere fact that the petitioners belong to the matrimonial family cannot be a sufficient ground to subject them to a criminal trial in the absence of material disclosing their individual involvement.

16. It is true that, at the stage of consideration of discharge, the Court is not required to conduct a detailed examination of the evidence as would be undertaken at the stage of trial. Nevertheless, the Court must examine whether the material on record provides a sufficient basis for

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proceeding against the accused. Where the allegations are general in nature and the evidence before charge does not disclose the essential ingredients of the alleged offences against particular accused persons, continuation of the proceeding may result in an abuse of the process of law.

17. In the present case, the complainant, her mother and her uncle have been examined before charge. As stated by the petitioners, their depositions do not disclose any specific overt act on the part of the petitioners. The allegations, in substance, concern the demand allegedly made by the husband and the subsequent matrimonial discord. No distinct role has been attributed to the petitioners which would prima facie establish their involvement in the alleged offences.

18. The other aspect urged on behalf of the petitioners relates to the absence of an affidavit accompanying the complaint petition. In ***Priyanka Srivastava Case (Supra)***, the Hon'ble Supreme Court emphasised the importance of affidavits and safeguards against the misuse of the criminal process.

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19. In the present case, the absence of specific allegations against the petitioners, when considered along with the depositions recorded before charge and the overall nature of the accusation, assumes significance. The materials do not disclose a sufficient factual basis for continuing the criminal proceeding against the petitioners merely on account of their relationship with the husband of the complainant.

20. This Court is conscious of the fact that the power to quash a criminal proceeding must be exercised with care and only where the circumstances justify such interference. However, where the allegations, even when considered in their entirety, do not disclose the commission of the alleged offences by the persons sought to be prosecuted, the Court would be justified in exercising its inherent jurisdiction to prevent abuse of the process of law and to secure the ends of justice.

21. In view of the facts and circumstances discussed above and taking note of **Abhishek Case (Supra)**, this Court finds that the continuation of the

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criminal proceeding against the petitioners, who are the in-laws, in the absence of specific allegations and supporting material disclosing their individual involvement, would serve no useful purpose and would amount to an abuse of the process of the Court.

22. Accordingly the impugned dated 06.10.2018 passed by the learned Sub-Divisional Judicial Magistrate, Bettiah, West Champaran, in S.C. No. 350 of 2019, corresponding to S.C. No. 407 of 2018, arising out of Complaint Case No. 2702-C of 2011, is hereby set-aside/quashed qua all above named petitioners with all its consequential proceedings.

23. Hence the present petition stands allowed.

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

(Chandra Shekhar Jha, J.)

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AFR/NAFR	NAFR
CAV DATE	N/A
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