

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.17188 of 2018**

Arising Out of PS. Case No.-394 Year-2011 Thana- BHOJPUR COMPLAINT CASE  
District- Bhojpur

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1. Pradhuman Lal, Son of Late Phulena Lal,
  2. Usha Devi, Wife of Pradhuman Lal,
  3. Sanjeet Kumar, Son of Pradhuman Lal,
  4. Santosh Lal, Son of Sri Vijay Lal,
  5. Geeta Devi, Wife of Santosh Lal, Resident of Village- Majharia, P.S.- Buxar Industrial District- Buxar. Presently P.W.D. Quarter, P.S.- Buxar, District- Buxar (As per complaint residing at Mohalla- Nai Bazar, P.S.- Buxar, District- Buxar.)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anjali Devi @ Jyoti Devi, D/o Birendra Kumar Sinha, Village- Teghara, P.S.- Bihiya, Distt- Bhojpur Ara. Presently residing at Mohalla- Nawadah at Ara in quarter of P.H.E.D. at Ara Town, District- Bhojpur.

... .. Opposite Party/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Ajay Nandan Sahay, Advocate |
| For the State        | : | Mr. Nityanand, APP              |
| For the O.P. No.2    | : | Mr. Akash Kr. Mishra, Advocate  |

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**CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA**  
**ORAL ORDER**

11    07-04-2026                      Heard learned counsel for the petitioners as well as learned counsel for the O.P. No.2 and learned APP for the State.

2. The present application has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') for quashing the order dated 22.12.2017 passed by the learned S.D.J.M., Bhojpur at Ara (hereinafter referred to as 'Magistrate') in Trial No.3127 of 2011 arising out of Complaint Case No.394 (C) of 2011 wherein



learned Magistrate has rejected the discharge petition filed under Section 245 of the Cr.P.C. by the petitioners herein.

3. The genesis of the present case arises out of Complaint Case No.394 (C) of 2011, which was instituted on the basis of a complaint dated 23.03.2011 filed by O.P. No. 2 against her husband and his family members, including the present petitioners, alleging commission of offences under Sections 498A and 379 of the Indian Penal Code, 1860 and under Sections 3 and 4 of the Dowry Prohibition Act, 1961. As per the complaint, the marriage of the complainant (O.P. No.2) was solemnized with the husband, Deepak Kumar, in the year 2008, and at the time of marriage, cash, gifts, and other articles were given as per the financial capacity of her family. It has been alleged that after the marriage, the accused persons, including the present petitioners, started demanding additional dowry of Rs.50,000/- and a motorcycle, and upon non-fulfilment of the said demand, the O.P. No.2 was subjected to physical and mental cruelty. The complaint further discloses that despite intervention by her parental family on earlier occasions, the alleged harassment continued, and ultimately, she was compelled to leave her matrimonial home and take shelter at her parental house. The petitioners, who are the father-in-law,



mother-in-law, brother-in-law, and distant relatives (*Mausa* and *Mausi*) of the husband of O.P. No.2, have been arrayed as accused in the said complaint. Upon filing of the complaint, cognizance for the offences under Section 498A and 379 of the Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act was taken against the accused persons, including the present petitioners.

4. It appears from the record that after appearance in the case, the present petitioners filed an application for discharge under Section 245 of the Cr.P.C., stating therein that no *prima facie* case is made out against them and that they have been implicated on the basis of general and omnibus allegations without any specific overt act. The learned Magistrate, however, upon consideration of the materials available on record and the evidence adduced before charge, rejected the said discharge petition *vide* the impugned order dated 22.12.2017. Being aggrieved by the said order of rejection of discharge, the petitioners have preferred the present Criminal Miscellaneous Application seeking quashing of the impugned order as well as the entire criminal proceeding against them.

5. Learned counsel for the petitioners submits that the impugned order dated 22.12.2017 rejecting the discharge



petition, suffers from non-application of judicial mind, inasmuch as the learned Magistrate failed to consider that the allegations made in the complaint are vague, general and omnibus in nature, without attributing any specific role or overt act to the present petitioners. Learned counsel further submits that the petitioners are merely in-laws and distant relatives of the husband, some of whom were residing separately, and have been falsely implicated due to matrimonial discord between the husband and the O.P. No.2. It is further submitted that even the materials brought on record during inquiry do not disclose any *prima facie* case against the petitioners.

6. Learned counsel for the petitioners further submits that the witnesses examined before charge does not substantiate the essential ingredients of the offences alleged against the petitioners. It is pointed out that neither the complainant nor her parents have come forward to depose in support of the complainant (O.P. No.2). Learned counsel submits that the learned Magistrate has mechanically rejected the discharge petition under Section 245 of the Cr.P.C. without properly appreciating the absence of specific allegations and the settled legal position that distant relatives should not be roped in on the basis of bald allegations. Learned counsel thus submits that



continuance of the criminal proceeding against the petitioners would amount to abuse of the process of the Court and the impugned order is liable to be set aside.

7. Learned counsel for O.P. No.2 submits that the impugned order dated 22.12.2017 has been passed after due consideration of the materials available on record and does not suffer from any illegality. It is submitted that the complaint as well as the evidence adduced during inquiry clearly disclose a *prima facie* case against the petitioners, who have actively participated in subjecting the O.P. No.2 to cruelty in connection with demand of dowry. He further submits that at the stage of discharge under Section 245 of the Cr.P.C., the Court is only required to see whether sufficient grounds exist to proceed, and not to meticulously examine the evidence. Learned counsel thus submits that the petitioners have rightly been directed to face trial and the present application is liable to be dismissed.

8. Learned APP for the State submits that the impugned order does not call for any interference, as the learned Magistrate has rightly found sufficient materials to proceed against the petitioners. It is submitted that at the stage of consideration of discharge, truthfulness of the allegations cannot be examined in detail. Learned APP thus submits that the



application is devoid of merit and is liable to be rejected.

9. Having heard the learned counsel for the parties as well as learned APP for the State and upon perusal of the materials available on record, the core issue that arises for consideration in the present case is whether the materials on record disclose sufficient grounds for proceeding against the petitioners for the offences alleged.

10. Before advertng to the merits of the case, it would be apposite to consider the scope of Section 245 of the Cr.P.C. In a warrant case under Section 245 of the Cr.P.C. instituted otherwise than on a police report i.e. on complaint, the Magistrate is required to discharge the accused if, upon taking all the evidence referred to under Section 244 of the Cr.P.C., no case is made out. A criminal Court is expected under Section 245(1) of the Cr.P.C. only to consider whether such a case has been made out 'which, if unrebutted, would warrant a conviction'. The quality of consideration of the material available before the Court at a later stage of proceeding i.e. at the stage of deciding whether the accused deserves to be convicted or acquitted is totally different and more exhaustive. The quality of consideration at the stage of Sections 203 & 204 of the Cr.P.C. and Sections 245 & 246 of the Cr.P.C. are



different. At this stage, the Court is not required to conduct a meticulous appreciation of evidence, but it must be satisfied that there exist sufficient grounds to proceed against the accused. Conversely, where the allegations are vague, unsupported by material evidence, or do not disclose the essential ingredients of the offence, the accused is entitled to discharge.

11. At this stage, it is apposite to reproduce some relevant paragraphs of the judgment of Hon'ble Supreme Court in the case of *Abhishek v. State of Madhya Pradesh*, reported in **(2023) 16 SCC 666** with respect to the contours of the power to quash criminal proceedings under Section 482 of the Cr.P.C. The Hon'ble Apex Court observed as under:

*“16. 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 v. State of Bihar [(2022) 6 SCC 599], this Court had occasion to deal with a similar situation where the High Court had refused [Mohd. Ikram v. State of Bihar, 2019 SCC OnLine Pat 1985] to quash an FIR registered for various offences, including Section 498-AIPC. 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 498-AIPC 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.*

**xxxx xxxx xxxx**

*19. Of more recent origin is the decision of this Court in Mahmood Ali v. State of U.P. [(2023) 15 SCC 488] on the legal principles applicable apropos Section 482 CrPC. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 CrPC 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.”*

12. The Hon’ble Supreme Court in *Achin Gupta v. State of Haryana and Anr.*, reported in (2025) 3 SCC 756 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 482 CrPC 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)*

13. Having considered the rival submissions and on perusal of the materials available on record, this Court finds that the allegations made in the complaint against the present petitioners are general and omnibus in nature, without specifying any particular overt act attributable to them. The petitioners are admittedly the in-laws and distant relatives of the husband, and there is nothing on record to indicate their direct involvement in the alleged occurrence. Further, the evidence adduced before charge does not *prima facie* establish the essential ingredients of the offences alleged against the petitioners herein. In such circumstances, allowing the criminal proceeding to continue against the petitioners would amount to abuse of the process of the Court.

14. In view of the discussions made hereinabove and upon careful consideration of the entire materials available on record, this Court is of the considered opinion that the learned Magistrate has not appreciated material aspects of the case while rejecting the discharge petition. The impugned order, therefore, warrants interference by this Court, as continuation of the criminal proceeding against the present petitioners, in the facts and circumstances of the case, would not be justified.



15. Accordingly, the impugned order dated 22.12.2017 passed by learned S.D.J.M., Bhojpur at Ara in Trial No.3127 of 2011 arising out of Complaint Case No.394 (C) of 2011, whereby the petition filed by the petitioner under Section 245 of the Cr.P.C. has been rejected, is hereby quashed.

16. Resultantly, the entire criminal proceeding, so far as it relates to the present petitioners, also stands quashed.

17. The present Criminal Miscellaneous Application, accordingly, stands allowed.

18. Let a copy of this Order be communicated to the Court concerned forthwith.

**(Sunil Dutta Mishra, J)**

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