

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11320 of 2018**

Arising Out of PS. Case No.-52 Year-2017 Thana- MAHILA PS District- Darbhanga

Atul, Son of Late Shashi Bhushan Lal Karn, Resident of Village-Mahinam,
P.S.-Bahera, District-Darbhangha Present residing at B.R.T.S. Quarter no. B/C-
1/61 Barauni, P.S.-Barauni Town, District-begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Khushboo Kumari, D/o Nityanand Mallik, R/o-HIG-109, Housing Board,
Laheriyasarai, District-Darbhangha

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Shama Sinha, Advocate Mr. Vijayansh Pratap Singh, Advocate Mr. Surya Prakash, Advocate
For the Opposite Party/s :		Mr. Murlidhar, APP

**CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
C.A.V. JUDGMENT**

Date : 29-06-2026

1. Heard learned counsel for the petitioner as well as
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 08.09.2017
passed by the learned Sub-Divisional Judicial Magistrate,
Darbhanga (hereinafter referred to as 'Magistrate') in connection
with TR- 3543 of 2017 arising out of Mahila P.S. Case No.52 of
2017, wherein the learned Magistrate took cognizance for the
offences punishable under Section 323, 504, 506, 498A and 379
read with Section 34 of the Indian Penal Code, 1860 against the



the petitioner herein, who is the husband of O.P. No.2 and two other accused persons (in-laws of O.P. No.2).

3. The facts of the case, in brief, as per the F.I.R., is that the marriage between the petitioner and the informant (O.P. No.2) was solemnized on 11.12.2005 as per Hindu rites and customs, and at the time of marriage she got gift valued at Rs.15 lakhs by her parents and relatives. It is alleged that petitioner and his family members were not satisfied with the aforesaid gift and used to taunt in this regard causing mental cruelty to her. Two children (a daughter in 2008 and a son in October 2009) were born out of their wedlock. The petitioner who is an Engineer, working in Indian Oil Corporation, purchased a flat in Greater Noida where they started to live but behavior of the accused persons did not change and they continued to misbehave with the informant (O.P. No.2). On transfer of the petitioner to Barauni, they shifted in a quarter provided by the Refinery at Begusarai, where also the petitioner used to assault and misbehave with her. It is further alleged that on 11/12.05.2017 in the night the petitioner came with a girl and bottle of wine which was opposed by the informant (O.P. No.2), whereafter the accused persons closed the informant (O.P. no.2) in a room and assaulted her. Subsequently, the police came there and warned the petitioner. The O.P. No.2 has also alleged that on 12.05.2017 her ornaments



and belongings were taken away, and she was driven out from the house and due to this, she started living with her father in his house at Darbhanga. It is further alleged that the petitioner came to her parental house and also assaulted her and attempted to take away the children. On the basis of the aforesaid allegations, Darbhanga Mahila P.S. Case No.52 of 2017 was instituted under Sections 323, 504, 506, 498A and 379 read with Section 34 of the Indian Penal Code, and upon completion of investigation, the Investigating Officer submitted the charge-sheet against the accused persons.

4. On the basis of the said allegations, the learned Magistrate, *vide* impugned order dated 08.09.2017 took cognizance for the offences punishable under Sections 323, 504, 506, 498A and 379 read with Section 34 of the Indian Penal Code against the accused persons named in the charge-sheet. Petitioner, being aggrieved by the said order of cognizance against him, has preferred this application praying to quash the impugned order dated 08.09.2017 passed against him by the learned Magistrate.

5. Learned counsel for the petitioner submitted that the essential ingredients of Section 498A of the Indian Penal Code, namely “cruelty” as defined under the Explanation thereto, are wholly absent in the present case. It is submitted that the



F.I.R. does not disclose any specific allegation of dowry demand, either direct or indirect, against the petitioner, and mere expression of dissatisfaction with gifts cannot be equated with a demand for dowry. Learned counsel submitted that the allegations are vague, omnibus and devoid of particulars such as date, time, place or manner of occurrence, and even the allegations of physical assault are not supported by any medical or corroborative evidence. It is submitted that no *prima facie* case is made out against the petitioner even under Section 498A of the Indian Penal Code.

6. Learned counsel for the petitioner further submitted that the F.I.R. suffers from inherent improbabilities and is attended with *mala fide*. It is submitted that there is an unexplained delay in lodging the F.I.R., which casts serious doubt on the veracity of the prosecution case. It is also submitted that prior to the institution of the present case, the petitioner had already filed information petitions before the competent Court apprehending false implication, which clearly indicates that the present case is a counterblast. Learned counsel submitted that certain allegations, including those relating to theft and assault, were not supported by the independent witnesses and they stated that the O.P. No.2 herself left the house with her valuable belongings and went with her father in absence of the petitioner.



It is submitted that the O.P. No.2 (informant) herself gave a written statement to Begusarai Police that she was not locked in the room, as alleged, and a simple quarrel took place between them and she was alright, thereby rendering the entire prosecution case doubtful.

7. It is further submitted that in the present case, there is (a) no ingredient of cruelty under Section 498A Indian Penal Code; (b) no allegation of dowry demand; (c) unexplained delay of 12 years; (d) voluntary abandonment of home and children by the O.P. No.2 (informant); and (e) written retraction of allegation by the O.P. No.2 (informant) are the factors which require the quashing of criminal proceeding against the petitioner.

8. Placing reliance upon the judgments of the Hon'ble Supreme Court in ***Ghanshyam Soni v. State (Govt. of NCT of Delhi)***, reported in ***2025 SCC OnLine SC 1301***; ***Achin Gupta v. State of Haryana and Anr.***, reported in ***(2025) 3 SCC 756***; and ***Rajesh Chaddha v. State of U.P.***, reported in ***2025 SCC OnLine SC 1094***, learned counsel submitted that continuation of criminal proceedings on the basis of general and omnibus allegations amounts to abuse of the process of law. The law is well settled that the Hon'ble High Court in exercise of powers conferred under Section 482 of Cr.P.C. must delve into the



material on record to assess what the complainant has alleged and whether any offence is made out even if allegations are accepted in *toto*. It is, thus, submitted that in view of the settled legal position and the facts of the present case, the impugned order of cognizance as well as the entire criminal proceeding against the petitioner and his family members are fit to be quashed in exercise of inherent jurisdiction of this Court.

9. Learned APP for the State submitted that the allegations made in the F.I.R. disclose *prima facie* commission of cognizable offences and the learned Magistrate has rightly taken cognizance.

10. Despite valid service of notice upon O.P. No.2, as reflected from the service report on record, none has appeared on her behalf to contest the present application. Hence, this Court proceeds to consider the matter in her absence.

11. Having heard learned counsel for the petitioner and learned APP for the State, and upon perusal of the materials available on record, this Court proceeds to examine whether the continuance of the criminal proceeding against the petitioner would be in the interest of justice or would amount to abuse of the process of the Court.

12. It is well settled that while exercising jurisdiction under Section 482 of the Cr.P.C., this Court is



required to examine whether the uncontroverted allegations made in the complaint and the materials brought on record disclose the commission of any offence. If the allegations are so absurd and inherently improbable that no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding, or where the proceeding is manifestly attended with *mala fide* and has been instituted with an ulterior motive for wreaking vengeance, the same is liable to be quashed to secure the ends of justice.

13. 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-A/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 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.”

14. 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 482 CrPC was examined. 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.**”*

(emphasis supplied)



15. The Hon'ble Supreme Court in *Ghanshyam*

Soni (supra) has observed as under:

“11. As regards the Appellant, the purportedly specific allegations levelled against him are also obscure in nature. Even if the allegations and the case of the prosecution is taken at its face value, apart from the bald allegations without any specifics of time, date or place, there is no incriminating material found by the prosecution or rather produced by the complainant to substantiate the ingredients of “cruelty” under section 498A IPC, as recently observed in the case of Jaydedeepsinh Pravinsinh Chavda v. State of Gujarat and Rajesh Chaddha v. State of Uttar Pradesh. The Complainant has admittedly failed to produce any medical records or injury reports, x-ray reports, or any witnesses to substantiate her allegations.....”

16. At this juncture, it would be apposite to examine the nature of allegations levelled against the husband. While the husband ordinarily occupies a central position in a matrimonial dispute, criminal liability cannot be presumed merely on account of the marital relationship. The allegations must disclose specific acts or omissions attributable to him which satisfy the essential ingredients of the offences alleged. The distinction between a bald accusation and a legally sustainable allegation assumes significance while assessing whether the criminal prosecution deserves to continue. In this regard, the observations of the Hon'ble Supreme Court in ***Belide Swagath Kumar v. State of***



Telangana and Anr., reported in ***2025 SCC OnLine SC 2890*** are instructive:

“24. A bare perusal of the FIR shows that the allegations made by the complainant-respondent No. 2 are vague and omnibus. Other than claiming that the husband and his family along with the accused-appellant herein mentally harassed her with a demand of dowry, the complainant-respondent No. 2 has not provided any specific details or described any particular instance of harassment. Although she has alleged that an amount totalling to Rupees One Crore was demanded by the accused-appellant and his family members, the complainant-respondent No. 2 has failed to put forth any evidence or material on record to elaborate or substantiate the same. Furthermore, the complainant-respondent No. 2 has failed to impress the court as to how the said alleged harassment has caused her any injury, mental or physical. There has been no remote or proximate act or omission attributed to the accused-appellant that implicates him or assigns him any specific role in the said FIR for the offence of 498A of the IPC. Merely stating that the accused-appellant has mentally harassed the complainant-respondent No. 2 with respect to a demand of dowry does not fulfil the ingredients of Section 498A of the IPC especially in the face of absence of any cogent material or evidence on record to substantiate the said allegations. The term “cruelty” cannot be established without specific instances. The tendency of invoking these sections, without mentioning any specific details, weakens the case of prosecution and casts serious aspersions on the viability of the version of the complainant. Therefore, this Court cannot ignore the missing specifics in an FIR which is the premise of invoking criminal machinery of the State. In such cases involving



allegations of cruelty and harassment, there would normally be a series of offending acts, which would be required to be spelt out by the complainant against perpetrators in specific terms to involve such perpetrators into the criminal proceedings sought to be initiated against them and therefore mere general allegations of harassment without pointing out the specifics against such persons would not be sufficient to continue criminal proceedings.”

17. In the present case, upon careful scrutiny of the F.I.R. and the materials brought on record, this Court finds that the allegations levelled against the petitioner are largely general and omnibus in nature. The F.I.R. narrates a long span of matrimonial life from the year 2005 till 2017, however, it fails to attribute any specific overt act to the petitioner. The allegation regarding dissatisfaction with gifts at the time of marriage does not disclose any specific demand of dowry, which is a *sine qua non* for constituting an offence under Section 498A of the Indian Penal Code. Moreover, the other allegations relating to cruelty and harassment are stated in a vague and sweeping manner without any supporting material or contemporaneous complaint. There is force in the argument of learned counsel for the petitioner that the allegation of few taunts here and there is a part of everyday life which for happiness of the family are usually ignored. Specific details in respect of those taunts have not been disclosed.



18. It further transpires that though allegations of physical assault and misappropriation of ornaments have been made, there is no medical evidence, injury report or any independent corroboration to substantiate such claims. The allegation of theft under Section 379 of the Indian Penal Code also appears to be bald and unsupported by any specific averment. The F.I.R. is conspicuously silent as to any concrete instance of wilful conduct on the part of the petitioner which could be said to be of such gravity so as to fall within the ambit of “cruelty” as defined under law.

19. Moreover, it can explicitly be inferred from perusal of the materials available on record, specially, the case diary, that on 11.06.2017, there was verbal altercation between the petitioner and the O.P. No.2, following which police arrived at their residence within the premises of Barauni Refinery Housing Colony, and they returned after some settlement between both the parties. Later, on 12.05.2017, as available from the records, O.P. No.2 along with both the children left the said house with her father and brother-in-law (*jija*). Subsequently, the F.I.R. bearing, Darbhanga Mahila P.S. Case No.52 of 2017 was registered on 18.06.2017.

20. This Court also cannot lose sight of the fact that no prior complaint to any authority with respect to any cruelty



between 2005 to 2017 during their conjugal life has been brought on record. The cumulative effect of the aforesaid circumstances indicates that the allegations are not only lacking in material particulars but also fail to *prima facie* constitute the offences alleged against the petitioner, and as such, allowing the criminal proceeding to continue would not be in the interest of justice.

21. It is further pertinent to note that even if the allegations contained in the F.I.R. are accepted in their entirety, they essentially disclose a strained matrimonial relationship and allegations of general discord between the spouses. The F.I.R. does not disclose any specific instance of unlawful demand for dowry made by the petitioner nor does it narrate any proximate act of such nature which could reasonably be construed as “cruelty” within the meaning of Explanation (a) or (b) to Section 498A of the Indian Penal Code. The distinction between ordinary wear and tear of matrimonial life and conduct amounting to criminal cruelty must be scrupulously maintained. It is to be noted that criminal law cannot be permitted to be invoked on the basis of vague grievances and generalized allegations bereft of material particulars. In the considered view of this Court, the allegations, taken at their face value, fail to satisfy the foundational ingredients of the offences alleged and, therefore, continuation of the prosecution would amount to permitting the



criminal process to be used for purposes for which it was never intended.

22. This Court has also examined the materials collected during investigation as reflected from the case diary. Significantly, the investigation has not unearthed any independent material indicating a specific demand of dowry or any particular act attributable to the petitioner constituting cruelty within the meaning of Section 498A of the Indian Penal Code. The charge-sheet appears to have been submitted substantially on the basis of the statements reiterating the allegations made in the F.I.R. without any material improvement on the essential ingredients of the offences alleged. Mere filing of a charge-sheet cannot, by itself, justify continuation of a criminal prosecution when the foundational ingredients of the offence remain unsubstantiated.

23. 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*.

24. The present case, in the considered opinion of this Court, squarely falls within the parameters indicated by the Hon'ble Supreme Court in *Bhajan Lal (supra)*, particularly the category where the allegations made in the F.I.R., even if taken at their face value and accepted in their entirety, do not *prima facie* constitute the offences alleged, and also the category where the criminal proceeding appears to have been instituted with an oblique motive arising out of a matrimonial discord. The continuation of such prosecution would therefore amount to abuse of the process of the Court and would result in miscarriage of justice.

25. Accordingly, the impugned order dated 08.09.2017 passed by the learned Sub-Divisional Judicial Magistrate, Darbhanga in connection with TR No. 3543 of 2017 arising out of Mahila P.S. Case No.52 of 2017, so far as it relates to the present petitioner, is hereby set aside and the entire criminal proceeding arising therefrom, *qua* the petitioner is quashed.

26. The present Criminal Miscellaneous Application



is, accordingly, allowed.

27. Let a copy of this judgment be communicated to
the Court concerned forthwith for needful.

(Sunil Dutta Mishra, J)

Ritik/-

AFR/NAFR	NAFR
CAV DATE	16.06.2026
Uploading Date	
Transmission Date	

