

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10952 of 2018

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

Alok Bhushan, Son of Shashi Bhushan Malik, Resident of Village- Mahinam, P.S.- Bahera, District- Darbhanga, Present residing of B- 801, OAK Salarpuria Greenge Hoser Road Next to Oxford College, Bammanahalli Bangalore South, Bommannahalli, P.S.- Bangalore South, District- Bengaluru Karnataka- 560068.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Khushboo Kumari, D/o Nityanand Mallik, Resident of HIG-109, Housing Board, P.S. Lehriasarai, District Darbhanga.

... .. 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. Shantanu Kumar, 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 Sections 323, 504, 506, 498A and 379 read with Section 34 of the Indian Penal



Code, 1860 against the present petitioner, who is elder brother-in-law (*Jeth*) of O.P No.2 and other accused persons.

3. Prosecution story, in brief, is that the marriage between the informant (O.P. No.2) and the younger brother of the petitioner, Atul (co-accused) was solemnized on 11.12.2005 in accordance with Hindu rites and customs and at the time of marriage shet got gift valued at Rs.15 lakhs by her parents and relatives. It has been alleged that despite sufficient gifts having been given at the time of marriage, the accused persons were not satisfied and the O.P No.2 was subjected to taunt, causing mental cruelty to her. Two children were born in 2008 and 2009 out of their wedlock. It is further alleged that O.P. No.2 was misbehaved by her husband and his family members at Greater Noida on transfer of the husband of informant (O.P. No.2) to Barauni. It is further alleged that on 11/12.05.2017 at night the accused persons closed the informant in a room and assaulted her when she opposed bringing of a girl and bottle of wine by her husband (Atul). 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 matrimonial home. Subsequently, it is alleged that the husband of O.P. No.2 came to her parental house and 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 under Section 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 learned Magistrate has taken cognizance against the petitioner in a mechanical, arbitrary and routine manner without proper application of judicial mind. It is submitted that the petitioner is married elder brother of the husband of O.P. No.2 (informant) and has falsely been implicated in the present case. Learned counsel further submitted that the petitioner had no concern with the matrimonial life and domestic affairs of the O.P. No.2 and her husband. It is next submitted that the petitioner had completed his studies from Oxford University in the United Kingdom and thereafter completing his studies he



moved to Patna, where he was residing separately with his family. Learned counsel submitted that the petitioner had moved to the United Kingdom in the year 2011 in connection with his work and remained there till 2016, and thereafter on his return to India the petitioner joined as General Manager in RMC Readymix (India) at Bangalore, and thus he never resided with O.P No.2 and her husband.

6. Learned counsel for the petitioner further submitted that the allegations made in the F.I.R. are general and omnibus in nature and no specific overt act has been attributed to the petitioner. It is submitted that the petitioner has been implicated in the present case only on account of his relationship with the husband of O.P. No.2 to exert pressure on him. Learned counsel submitted that continuation of criminal proceedings on the basis of general and omnibus allegations amounts to abuse of the process of Law. It is submitted that the law is well settled that the High Court in exercise of inherent power 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*. In support of her submissions, learned counsel has relied upon the judgments of the Hon'ble Supreme Court in ***Sushil Kumar Sharma v. Union of India & Ors.***, reported in (2005) 6 SCC



281; Rajesh Sharma & Ors. v. State of U.P. & Anr., reported in (2018) 10 SCC 472; *Preeti Gupta & Anr. v. State of Jharkhand & Anr.*, reported in (2010) 7 SCC 667; *Geeta Mehrotra & Anr. v. State of U.P. & Anr.*, reported in (2012) 10 SCC 741; *K. Subba Rao & Ors. v. State of Telangana & Ors.*, reported in (2018) 14 SCC 452; *Rajiv Thapar & Ors. v. Madan Lal Kapoor*, reported in (2013) 3 SCC 330; and *State of Haryana & Ors. v. Bhajan Lal & Ors.*, reported in 1992 Supp (1) SCC 335.

Learned counsel lastly submitted that there is no specific allegation against the petitioner and continuation of criminal proceedings against the present petitioner would amount to abuse of the process of law and the same is appropriate to be quashed.

7. Learned counsel for the petitioner next submitted that marriage of brother of the petitioner was solemnized with O.P. No.2 in the year 2005 and they have been blessed with two children and they were residing separately from the petitioner and the F.I.R. was lodged in the year 2017 having no allegation of dowry demand and petitioner having no concern with the matrimonial affairs of the O.P. No.2 (informant) and her husband.

8. 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. However, he has conceded that petitioner is in-law of O.P. No.2 and appropriate order may be passed in the interest of justice.

9. 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.

10. Having heard learned counsel for the petitioner and learned APP for the State and upon perusal of the materials available on record, this Court finds the uncontroverted fact that the petitioner is the elder brother of the husband of O.P. No.2 (informant) and she has alleged harassment and cruelty in connection with demand of dowry and ultimately driven out from matrimonial home.

11. 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.

12. At this stage, it is apposite to mention that this Court owes a duty to subject the allegations made in the complaint or F.I.R. to a careful and thorough scrutiny so as to ascertain, *prima facie*, whether there exists any grain of truth in the allegations or whether the same have been made merely with the sole object of implicating certain individuals in a criminal case, particularly when the prosecution arises out of a matrimonial dispute.

13. The Hon'ble Supreme Court has time and again held that in cases arising out of matrimonial discord, the Courts are required to exercise greater caution and carefully scrutinize the allegations, particularly when criminal proceedings are sought to be initiated against the relatives of the husband, so as to prevent misuse of the criminal process. 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 the 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 complainant are required to be scrutinised with great care and circumspection.

(emphasis supplied)

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 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 disputes 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 that matter was that the courts would not encourage such disputes.”

15. The Hon’ble Supreme Court in *K. Subba Rao*

(supra) has observed as under:

“6. Criminal proceedings are not normally interdicted by us at the interlocutory stage unless there is an abuse of the process of a court. This Court, at the same time, does not hesitate to interfere to secure the ends of justice. See State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] . The courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband



should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out. See Kans Raj v. State of Punjab [Kans Raj v. State of Punjab, (2000) 5 SCC 207 : 2000 SCC (Cri) 935] and Kailash Chandra Agrawal v. State of U.P. [Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551 : (2015) 3 SCC (Cri) 536]”

16. The Hon’ble Supreme Court in ***Kahkashan Kausar @ Sonam and Ors. v. State of Bihar and Ors.*** reported in ***(2022) 6 SCC 599***, has observed as under:

“17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-A I.P.C and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.”

17. The Hon’ble Supreme Court in ***Achin Gupta v. State of Haryana and Anr.***, reported in ***(2025) 3 SCC 756***, has reiterated the settled legal position and 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)

18. It is a settled position of law that while considering a prayer for quashing of criminal proceedings at the threshold, the Court is required to examine whether the allegations made in the complaint, together with the materials placed on record in support thereof, disclose the commission of a *prima facie* offence against the accused warranting continuation



of the criminal prosecution. At this stage, the Court is not required to enter into a detailed evaluation or meticulous appreciation of the evidence, but only to determine whether the basic ingredients constituting the alleged offence are prima facie made out from the averments contained in the complaint. This principle has been consistently affirmed by the Hon'ble Supreme Court in several decisions, including *Bhajan Lal (Supra)* and *Pradeep Kumar Kesarwani v. State of Uttar Pradesh*, reported in *2025 SCC OnLine SC 1947*.

19. It is a well-settled principle of law that in cases arising out of matrimonial discord, particularly those instituted under Section 498A of the Indian Penal Code, the Courts are required to adopt a cautious approach while examining the allegations against the relatives of the husband. The Hon'ble Supreme Court has consistently observed that such allegations must be carefully scrutinized to determine whether they disclose the necessary ingredients of the alleged offences or whether the relatives of the husband have been arrayed as accused solely on account of their familial relationship with the principal accused. In circumstances where the allegations are general in nature and do not contain specific assertions indicating the active participation or involvement of such relatives in the alleged



offence, permitting the criminal proceedings to continue against them may result in an abuse of the process of law.

20. In the present case, upon careful perusal of the F.I.R. and the materials available on record, specially the case diary, it appears that the allegations made against the petitioner herein are general and omnibus in nature without any specific overt act attributed to him. It further appears that the petitioner was residing separately and had no direct concern with the matrimonial life of the O.P. No.2 and her husband. It is well settled that in matrimonial disputes the relatives of the husband are often implicated on the basis of vague and sweeping allegations. In absence of specific and distinct allegations constituting the ingredients of the alleged offences, continuation of the criminal proceeding against such relatives would amount to abuse of the process of the Court.

21. In the considered opinion of this Court, allowing the criminal proceeding to continue against the present petitioner in the absence of specific allegations would amount to abuse of the process of the Court. Accordingly, the impugned order taking cognizance against the petitioner cannot be sustained in the eye of law and is liable to be quashed.

22. Accordingly, the impugned order of cognizance



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

23. The present criminal miscellaneous application is, accordingly, allowed.

24. Let a copy of this judgment be communicated to the concerned Court forthwith.

(Sunil Dutta Mishra, J)

Ritik/-

AFR/NAFR	NAFR
CAV DATE	16.06.2026
Uploading Date	
Transmission Date	

