

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18547 of 2018

Arising Out of PS. Case No.-644 Year-2016 Thana- JEHANABAD COMPLAINT CASE
District- Jehanabad

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1. Manoj Kumar, Son of Rameshwar Prasad,
 2. Bibha Devi, Wife of Manoj Kumar, null
 3. Basanti Devi, D/o Rameshwar Prasad,
 4. Sanjay Kumar, Son of Rameshwar Prasad. All R/o Village Irki Tola Madarpur, P.S. District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Reena Kumari, w/o Santosh Kumar, R/o Irki Tola Madarpur P.S. and Distt.- Jehanabad at present D/o Jagdish Pandit R/o Village Parkhand Colony P.S. Ghoshi, Distt.- Jehanabad.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Advocate
For the Opposite Party/s : Ms. Dr. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

10 14-05-2026 1. Heard learned counsel for the petitioners 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
18.09.2017 passed by the Court of learned C.J.M., Jehanabad
(hereinafter referred to as 'Magistrate') in connection with
Complaint Case No.644 of 2016, wherein the learned Magistrate
took cognizance of the offence under Sections 498A and 323 of
the Indian Penal Code, 1860 and under Sections 3 and 4 of the



Dowry Prohibition Act, 1961 against the accused persons including the present petitioners, who are in-laws of the O.P. No.2.

3. Briefly stated, the prosecution case as alleged in the complaint petition is that the complainant (O.P. No.2) was married to accused Santosh Kumar on 30.05.2015 according to Hindu rites and customs and after solemnization of marriage, she went to her matrimonial home where she resided for some time. It has further been alleged that thereafter the accused persons started subjecting her to cruelty and torture on account of non-fulfilment of demand of dowry, namely motorcycle, colour television and cash amount of Rs.2,00,000/-. The complainant (O.P. No.2) has further alleged that she was ultimately driven out from her matrimonial home on 20.10.2015. It is also alleged that the accused persons abused and assaulted the complainant (O.P. No.2) and snatched away her belongings and ornaments. Further allegation has been made that accused Santosh Kumar solemnized second marriage with another woman. It has also been stated that a petition before the mediation centre/help line was filed on 03.11.2015 wherein accused Santosh Kumar allegedly agreed to keep and maintain the complainant (O.P. No.2). Subsequently, the complainant



(O.P. No.2) filed the Complaint Case No.644 of 2016.

4. Upon perusal of the complaint petition, solemn affirmation of the complainant and the materials available on record, the learned Magistrate found *prima facie* case against the petitioners and *vide* the impugned order dated 18.09.2017 took cognizance of the offences punishable under Section 498A and 323 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act and directed issuance of summons against the accused persons. Being aggrieved by the said impugned order of cognizance and continuation of the criminal proceeding, the present application has been preferred by the petitioners, who are *Bhaisur* (petitioner no.1), *Gotni* (petitioner no.2), married *Nanad* (petitioner no.3) and *Bhaisur* (petitioner no.4) of the O.P. No.2.

5. Learned counsel for the petitioners submits that the petitioners are innocent persons and have falsely been implicated in the present case due to ulterior motive and personal vendetta. He submits that the allegations made in the complaint petition are wholly vague, omnibus and general in nature and no specific overt act has been attributed against the present petitioners. Learned counsel further submits that except making bald and sweeping allegations regarding demand of



dowry and torture, no specific date, time or manner of occurrence has been disclosed in the complaint petition so far as these petitioners are concerned.

6. Learned counsel for the petitioners further submits that petitioner nos.1 to 4 are relatives of the husband and were living separately and were not members of a joint family. He submits that petitioner no.1 is the brother-in-law (*Bhaisur*), petitioner no.2 is *Gotni*, petitioner no.3 is married sister-in-law (*Nand*) and petitioner no.4 is also brother-in-law of the complainant (O.P. No.2) and, therefore, their implication in the present case is wholly malicious and only with a view to harass the entire family. It is submitted that no material has been brought on record to substantiate the allegations levelled against the petitioners and continuation of the criminal proceeding against them would amount to abuse of the process of the Court.

7. Learned counsel for the petitioners lastly submits that the learned Magistrate has passed the impugned order mechanically without proper appreciation of the materials available on record and without recording adequate satisfaction regarding existence of *prima facie* case against the petitioners. It is, thus, submitted that the impugned order taking cognizance as well as the entire criminal proceeding arising out of Complaint



Case No.644 of 2016 are fit to be quashed in exercise of inherent powers of this Court.

8. Learned APP for the State fairly submits that the learned Magistrate, after considering the complaint petition and the materials available on record, found *prima facie* case and accordingly took cognizance of the offences against the petitioners. However, it is submitted that since the petitioners are relatives of the husband of O.P. No.2, appropriate order may be passed.

9. Despite valid service of notice upon O.P. No.2, and ample opportunity provided thereto, none appears on behalf of the O.P. No.2 when this matter was taken up for hearing.

10. Having heard learned counsel for the parties and upon perusal of the materials available on record, it is pertinent to note that the inherent jurisdiction under Section 482 of the Cr.P.C. is to be exercised sparingly, carefully and with great caution in order to prevent abuse of the process of the Court or otherwise to secure the ends of justice. It is well settled that while exercising jurisdiction under Section 482 of the Cr.P.C., this Court is not expected to embark upon an inquiry with regard to the truthfulness or otherwise of the allegations made in the complaint petition and only has to examine as to whether the



allegations made in the complaint petition, taken at their face value, disclose commission of any offence or not.

11. It is further well settled that in cases arising out of matrimonial disputes involving offences under Section 498A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act, the inherent power of quashing is to be exercised with due care and caution. The Court is required to examine whether the allegations made in the complaint petition, if taken on their face value, *prima facie* constitute the ingredients of the offences alleged. However, where the allegations are found to be vague, omnibus and general in nature without any specific attribution of overt act against the accused persons, particularly against the relatives of the husband, continuation of the criminal proceeding would amount to abuse of the process of law. The Hon'ble Supreme Court in catena of decisions has repeatedly cautioned against the tendency of implicating all family members of the husband in matrimonial disputes without disclosing their specific role in the alleged occurrence.

12. It is equally settled that while considering an application under Section 482 of the Cr.P.C., the High Court is not expected to conduct a mini trial or meticulously appreciate



the evidentiary value of the materials available on record. Nevertheless, where the allegations made in the complaint petition are inherently improbable or do not disclose the essential ingredients of the offences under Section 498A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act against certain accused persons, the Court would be justified in exercising its inherent jurisdiction to secure the ends of justice and to prevent misuse of the criminal machinery. Particularly in cases where distant or separately residing relatives are implicated by way of sweeping and bald allegations, without mentioning any specific act of cruelty, demand of dowry or participation in the alleged occurrence, the criminal proceeding against such accused persons may be liable to be quashed.

13. 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 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)

14. In the backdrop of the aforesaid settled legal position, this Court has carefully examined the allegations made in the complaint petition as well as the materials available on record. From perusal of the complaint petition, it transpires that though allegations regarding demand of dowry, torture and assault have been levelled, the same are general and omnibus in nature so far as the present petitioners are concerned. Except making bald allegations against all the accused persons collectively, the complainant (O.P. No.2) has not attributed any specific overt act to these petitioners indicating their individual



involvement in the alleged occurrence. No specific date, time or manner of alleged torture or demand of dowry by the present petitioners has been disclosed in the complaint petition.

15. This Court further finds that petitioners are relatives of the husband and specific stand has been taken by the petitioners that they were residing separately and were not members of a joint family. Petitioner no.3 is a married sister-in-law of the complainant (O.P. No.2), whereas petitioner nos.1 and 4 are brothers-in-law and petitioner no.2 is *Gotni* of the O.P. No.2. In the entire complaint petition, no specific material has been brought on record to *prima facie* demonstrate active participation of these petitioners in the alleged acts of cruelty or demand of dowry. The allegations appear to have been made in a sweeping manner against all family members without delineating their distinct roles.

16. Having regard to the nature of allegations made in the complaint petition and considering the absence of specific and distinct accusations against the present petitioners, this Court is of the considered view that continuation of the criminal proceeding against these petitioners would amount to abuse of the process of the Court. The learned Magistrate, while passing the impugned order, does not appear to have considered the



absence of specific allegations against the present petitioners and mechanically proceeded to take cognizance against all the accused persons. In such circumstances, interference by this Court in exercise of inherent jurisdiction is found to be justified.

17. In the facts and circumstances of the present case, this Court finds that the case of the present petitioners squarely falls within the categories illustratively laid down by the Hon'ble Supreme Court in *State of Haryana and Ors. v. Bhajan Lal and Ors.*, reported in *1992 Supp (1) SCC 335*, wherein it has been held that the inherent power under Section 482 of the Cr.P.C. may be exercised where the allegations made in the complaint petition, even if taken at their face value, do not *prima facie* constitute any offence against the accused persons or where the criminal proceeding is manifestly attended with *mala fide* and maliciously instituted with an ulterior motive for wreaking vengeance. In the present case, as discussed hereinabove, the allegations against the petitioners are omnibus and general in nature without any specific attribution of overt act and, therefore, continuation of the criminal proceeding against them would amount to abuse of the process of the Court.

18. Accordingly, the impugned order dated 18.09.2017 passed by the learned C.J.M., Jehanabad in



Complaint Case No.644 of 2016, whereby cognizance has been taken for the offences under Section 498A and 323 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act against the present petitioners, is hereby set aside so far as the present petitioners are concerned. Resultantly, the entire criminal proceeding arising therefrom *qua* the petitioners also stands quashed.

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

20. Interim order(s), if any, passed earlier in this matter stands vacated.

21. Let a copy of this order be communicated to the Court concerned forthwith for needful.

22. Let the Trial Court Records be sent back to the Court concerned without delay.

(Sunil Dutta Mishra, J)

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