

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26826 of 2018

Arising Out of PS. Case No.-70 Year-2015 Thana- RUPASPUR District- Patna

Usha Devi, Wife of Late Bachcha Sharma Resident of House No. 30 Nehru
Nagar, P.S.- Patliputra, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Smt. Sindhu Devi, Wife of Sri Makeswar Sharma, resident of Mohalla-
Ram Jaipal Nagar, Gola Road, Near (House No. 161 Safi Alam IPS) P.S.-
Rupaspur, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Usha Kumari Singh, Advocate
For the Opposite Party/s : Mr. Gauri Shankar Gupta, APP

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

8 07-04-2026 Heard learned counsel for the petitioner as well as
learned APP for thew 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.') to quash the order dated
25.07.2015 passed by the learned A.C.J.M., 1st, Danapur
(hereinafter referred to as 'Magistrate') in connection with
Rupaspur P.S. Case No.70 of 2015, corresponding to Trial
No.798 of 2015 wherein learned Magistrate took cognizance of
the offence under Sections 494 and 498A read with Section 34
of the Indian Penal Code, 1860 against the accused persons
including the petitioner herein, who is mother-in-law of the O.P.



No.2.

3. The prosecution case, in brief, as alleged in the First Information Report lodged by O.P. No.2 (informant), namely Sindhu Devi, is that she is the legally wedded wife of co-accused Ashutosh Kumar, and their marriage was solemnized on 27.02.2009 in accordance with Hindu rites and rituals, out of which wedlock a female child was born on 21.02.2010. It is alleged that she was subjected to cruelty and was threatened that her husband would contract a second marriage with the connivance of the family members who are made accused in the case, including the present petitioner. It is further alleged that the husband of O.P. No.2 solemnized second marriage on 02.12.2014. On the basis of the said allegations, the present case came to be instituted bearing Rupaspur P.S. Case No.70 of 2015.

4. Upon perusal of the materials available on record and the nature of allegations made in the written report, learned Magistrate took cognizance of the offence under Sections 494, 498A read with Section 34 of the Indian Penal Code against Ashutosh Kumar (husband of O.P. No.2), Usha Devi (petitioner), Bachcha Sharma (deceased father-in-law of O.P. No.2), Juli Kumari, Nidhi Kumari, Nagendra Kumar and Mintu



Kumari. Aggrieved by the impugned order of cognizance by the learned Magistrate, the petitioner has filed present Criminal Miscellaneous Application to quash the impugned order dated 25.07.2015 taking cognizance.

5. Learned counsel for the petitioner submits that the impugned order taking cognizance, is wholly misconceived and unsustainable in the eyes of law. Learned counsel further submits that the petitioner, being mother-in-law of O.P. No.2, has been falsely implicated in the present case in a routine manner without there being any specific or direct allegation against her in the F.I.R. It is submitted that the allegations are vague, general and omnibus in nature and do not satisfy the essential ingredients of the offence under Section 498A of the Indian Penal Code so far as the petitioner is concerned. Learned counsel submits that the core allegations pertain to the husband, namely Ashutosh Kumar, particularly with respect to the alleged second marriage, and the present petitioner has been implicated only on account of her relationship with the husband of O.P. No.2.

6. Learned counsel for the petitioner further submits that on an earlier occasion also, O.P. No.2 had instituted a complaint case on similar allegations, being Complaint Case



No. 233(C) of 2013, wherein cognizance had been taken against the accused persons including the present petitioner, however, the said order of cognizance was quashed by this Court *vide* order dated 04.01.2018 passed in Cr. Misc. No.11707 of 2015. Learned counsel submits that despite the said order of quashing, the O.P. No.2 has again initiated the present criminal proceeding on the same set of allegations, which clearly reflects her *mala fide* intention to harass the petitioner. It is further submitted that the present case has been lodged as a counterblast to the matrimonial case filed by the husband, and the learned Magistrate has mechanically taken cognizance without proper application of judicial mind. It is, therefore, submitted that the impugned order be quashed so far as the present petitioner is concerned.

7. Learned APP for the State opposes the prayer for quashing and submits that the allegations made in the F.I.R., taken at their face value, disclose the commission of cognizable offence under Section 498A of the Indian Penal Code. Learned APP further submits that at the stage of cognizance, a detailed appreciation of evidence is not required, and the learned Magistrate has rightly taken cognizance upon finding *prima facie* materials on record.



8. Despite valid service of notice upon O.P. No.2, none has appeared on her behalf to contest the present application. In such circumstances, this Court is left with no option but to proceed with the matter in absence of O.P. No.2 and decide the case on the basis of the materials available on record as well as the submissions advanced on behalf of the petitioner and the State.

9. It is well settled that in cases arising out of matrimonial disputes, the tendency to implicate all family members of the husband without specific and distinct allegations has been deprecated by the Hon'ble Supreme Court in a catena of decisions. The Hon'ble Apex Court has consistently held that vague and omnibus allegations, without any *prima facie* material indicating active involvement, would not justify the continuation of criminal proceedings against such relatives. However, it is equally settled that where the allegations are inherently improbable, absurd, or do not disclose the essential ingredients of the alleged offences, or where the proceeding appears to be manifestly attended with *mala fide* and instituted with ulterior motive, the Court would be justified in exercising its inherent jurisdiction to prevent abuse of the process of law.



10. 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.

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*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.”*

11. 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)

12. Upon consideration of the factual matrix of the present case, it emerges that the marriage between O.P. No.2 and the co-accused Ashutosh Kumar was solemnized in the year 2009 and disputes arose thereafter, primarily between the husband and wife. The core allegations in the F.I.R. relate to



alleged cruelty and the second marriage of the husband, which are specifically attributable to him. So far as the present petitioner is concerned, the allegations are general in nature without any specific instance of cruelty or overt act. It further appears that the petitioner has been residing separately and has no direct role in the day-to-day matrimonial affairs of the couple. It is also significant that on earlier occasion, on similar allegations, the order of cognizance was quashed by this Court, which lends support to the contention that the present prosecution qua the petitioner, lacks substantive foundation and appears to have been instituted in continuation of the matrimonial discord rather than on the basis of specific criminal conduct of the present petitioner.

13. In view of the discussions made hereinabove and considering the nature of allegations as well as the materials available on record, this Court is of the opinion that no *prima facie* case is made out against the petitioner for the offences alleged. Continuation of the criminal proceeding against the petitioner would, therefore, amount to abuse of the process of the Court and would not serve the ends of justice. Therefore, the impugned order taking cognizance dated 25.07.2015 *qua* the present petitioner, is fit to be quashed.



14. Consequently, the impugned order dated 25.07.2015 passed in connection with Rupaspur P.S. Case No.70 of 2015, corresponding to Trial No.798 of 2015, pending in the court of learned A.C.J.M.-I, Danapur, is hereby quashed so far as the present petitioner is concerned.

15. Resultantly, the entire criminal proceeding against the petitioner in the aforesaid case stands set aside.

16. Accordingly, the present Criminal Miscellaneous Application stands allowed to the aforesaid extent.

17. Let a copy of this order be communicated to the Court concerned forthwith for information and necessary compliance.

(Sunil Dutta Mishra, J)

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