

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26983 of 2018

Arising Out of PS. Case No.-823 Year-2016 Thana- COMPLAINT CASE District-
Kishanganj

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1. Md. Rasid @ Md. Rasid Son of Jumarat
 2. Sahera Wife of Rasid @ Md. Rasid
 3. Md. Mujahir Son of Rasid @ Md. Rasid
 4. Md. Munajir Son of Rasid @ Md. Rasid
 5. Md. Barka Babu Son of Rasid @ Md. Rasid
 6. Md. Bachcha Babu Son of Rasid @ Md. Rasid
 7. Sehrul Son of Rasid @ Md. Rasid
 8. Rahat Praveen Wife of Mujahir
 9. Asiya Wife of Sehrul All are residents of Village - Khajurbari, Police Station - Terhagachh, District - Kishanganj.

... .. Petitioner/s

Versus

1. State of Bihar
2. Amana Khatoon Wife of Anwar Resident of Village Khajurbari, Police Station - Terhagachh, District - Kishanganj, presently resident of Village - Dhata, P.S. - Sikati, District - Araria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. R. Kumar, Advocate
		Mr. Vijay Kumar, Advocate
For the Opposite Party/s :		Mr. Ajay Kumar-2, APP

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

10 03-07-2026 1. Heard learned counsel for the petitioners as well as
learned APP for the State.

2. The present application has been preferred under
section 482 of Criminal Procedure Code, 1973 for quashing the
order dated 06.06.2017 (hereinafter referred to as ‘impugned
order’) passed by the learned S.D.J.M., Kishanganj (hereinafter
referred to as ‘Trial Court’) arising out of Complaint Case No.



C823 of 2016, whereby cognizance has been taken for the offence punishable under Section 498A of the Indian Penal Code, 1860 against the petitioners and husband of O.P No.2.

3. *vide* order dated 23.06.2026, petitioner namely Anwar (co-accused/the husband of the O.P. No.2) was permitted to withdraw his application. Consequently, his name has been expunged from the array of petitioners. Thus, the present application survives only at the instance of remaining petitioners, who are the father-in-law, mother-in-law, brothers-in-law and Gotanis of the O.P. No.2.

4. The prosecution case, in brief, is that the marriage of complainant(O.P. No.2), was solemnized with Anwar according to Muslim rites and customs. It is alleged that sufficient gifts including ornaments, cash and other household articles were given at the time of marriage by parents of O.P No.2. It is further alleged that after about six months of the marriage, husband of O.P No.2 and petitioners herein started demanding an additional dowry of rupees 1,50,000/- and a buffalo and, on non-fulfilment of the said demand, subjected her to physical and mental cruelty. It is further alleged that on 06.11.2016, the accused persons physically assaulted O.P. No.2 and, while reiterating their demand for dowry, threatened that



her husband would solemnize a second marriage in the event of non-fulfilment of the said demand, and when she resisted, she was forcibly driven out of her matrimonial home after snatching her silver chain. On the basis of the aforesaid allegations, O.P. No.2 submitted a complaint before the learned Chief Judicial Magistrate, Kishanganj, which was subsequently registered as complaint case bearing Complaint Case No. C823 of 2016.

5. Upon perusal of the materials available on record, including the complaint petition, the solemn affirmation of O.P. No.2 and the statements of the witnesses, the learned Trial Court, found sufficient grounds to proceed against the accused persons and, *vide* impugned order dated 06.06.2017, took cognizance of the offence under Section 498A of the Indian Penal Code against petitioner herein and husband of O.P. No.2. Aggrieved thereby, the present petitioners have preferred this Criminal Miscellaneous Application seeking quashing of the impugned order of cognizance.

6. Learned counsel for the petitioners submits that the impugned order of cognizance suffers from complete non-application of judicial mind. Learned counsel further submits that the complaint petition as well as the materials collected during the inquiry do not disclose the commission of any



offence under Section 498A Indian Penal Code against the present petitioners. The allegations are vague, bald and omnibus in nature, without attributing any specific overt act or distinct role to any of the petitioners. Learned counsel further submits that the learned Trial Court mechanically took cognizance without satisfying itself that the essential ingredients of the alleged offence were made out against present petitioners.

7. Learned counsel further submits that present petitioner no.1 is the father-in-law, petitioner no.2 is the mother-in-law, petitioner nos.3 to 7 are the brother-in-law (*Devar*) and petitioner nos.8 and 9 are the *Gotani* of O.P. No.2. He further submits that except making general allegations against all the family members, no specific allegation has been levelled against any of the present petitioners. It is, thus, submitted that continuation of the criminal proceeding against the petitioners would amount to an abuse of the process of the Court and, accordingly, the impugned order taking cognizance deserves to be quashed in exercise of the inherent jurisdiction of this Court.

8. Despite valid service of notice and several opportunities provided to O.P. No.2, no one is present on behalf of O.P. No.2.

9. Learned APP for the State submits that the



allegations made in the complaint disclose *prima facie* commission of cognizable offence and the learned Trial Court has rightly taken cognizance. However, he has conceded that petitioners are in-law of O.P. No.2 and appropriate order may be passed in the interest of justice.

10. Having heard the learned counsel for the petitioners as well as learned APP for state and upon perusal of the materials available on record, it appears that O.P. No.2 was married to Anwar according to Muslim rites and customs. The allegations in the complaint are that after about six months of the marriage, all the accused persons demanded an additional dowry and, on account of non-fulfillment of the said demand, subjected O.P. No.2 to cruelty. It is further alleged that on 06.11.2016, O.P. No.2 was assaulted, threatened that her husband would contract a second marriage and was ultimately driven out of her matrimonial home after her silver chain was allegedly snatched. Subsequently, the learned Trial Court, *vide* the impugned order dated 06.06.2017, took cognizance of the offence punishable under Section 498A of the Indian Penal Code against husband of O.P. No.2 and present petitioners. In above facts and circumstances, the question which arises for consideration is whether the allegations and the materials available on record disclose a *prima facie* case against the present petitioners, or



whether the continuation of the criminal proceeding against them would amount to an abuse of the process of the Court warranting interference by this Court under Section 482 of Criminal Procedure Code.

11. At the outset, it is well settled that the inherent jurisdiction of the High Court under Section 482 Criminal Procedure Code is to be exercised sparingly, with circumspection and in the rarest of appropriate cases. While exercising such jurisdiction, the Court is required to assess whether the uncontroverted allegations in the complaint petition and the materials brought on record, taken at their face value, *prima facie* disclose the commission of the alleged offence against the accused and make out a *prima facie* case for proceeding against them. 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 appropriate 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-A IPC 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.”

13. In the present case, upon careful examination of materials on records, it transpires that except making general and omnibus allegations against the present petitioners, no specific overt act or distinct role has been attributed to any of the present petitioners. The allegations are collective in nature and do not disclose as to which of the present petitioners demanded the alleged dowry or subjected O.P. No.2 to cruelty. The present petitioners, are in-laws of O.P. No.2, appear to have been



implicated solely on account of their relationship with husband of O.P. No.2.

14. The Hon'ble Supreme Court has consistently held that in matrimonial disputes there is a growing tendency to implicate all the relatives of the husband. It has been cautioned that criminal proceedings against the relatives of the husband cannot be permitted to continue merely on the basis of vague, bald and omnibus allegations, in the absence of specific allegations disclosing their individual role in the commission of the alleged offence.

15. The principles governing the exercise of inherent jurisdiction were authoritatively laid down by the Hon'ble Supreme Court in *State of Haryana & Ors. v. Bhajan Lal & Ors.*, reported in *1992 Supp (1) SCC 335*, wherein it was held, inter alia, that where the allegations made in the complaint, even if taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence against the accused, the High Court would be justified in exercising its inherent jurisdiction to prevent abuse of the process of the Court and to secure the ends of justice.

16. Applying the aforesaid settled principles to the facts of the present case, this Court finds that the allegations against the present petitioners are wholly general and omnibus



and do not disclose the essential ingredients of the offence under Section 498A of the Indian Penal Code against them individually. The learned Trial Court appears to have mechanically taken cognizance without examining whether the materials on record disclose a *prima facie* case against each of the present petitioners. Hence, in the considered opinion of this Court, continuation of the criminal proceeding against them would, therefore, amount to an abuse of the process of the Court.

17. Accordingly, the impugned order dated 06.06.2017 passed by the learned S.D.J.M., Kishanganj in Complaint Case No. C 823 of 2016, is hereby set aside. Consequently, the entire criminal proceeding arising therefrom, so far as it relates to the present petitioners, stands quashed.

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

19. Interim order(s), if any, stands vacated.

20. Let a copy of this order be transmitted to the Court concerned forthwith for needful and compliance.

(Sunil Dutta Mishra, J)

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