

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28130 of 2018

Arising Out of PS. Case No.-362 Year-2017 Thana- COMPLAINT CASE District-
Kishanganj

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Alok Kumar, S/o- Saryu Mishra, Resident of Village- Dilavarganj, P.S.-
Kishanganj, District- Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ritu Kumari Jha, W/o- Alok Kumar Jha, D/o- Shri Rajendra Kumar Jha,
Presently residing at Village- Vishanpur, P.S.- Kochadhaman, District-
Kishanganj.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar, Advocate
For the Opposite Party/s : Mr. Rajesh Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

7 23-04-2026 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.') by the petitioner against the
order dated 25.01.2018 passed by the learned Chief Judicial
Magistrate, Kishanganj (hereinafter referred to as 'Trial Court')
in connection with Complaint Case No.362 (C) of 2017,
wherein the learned Trial Court took cognizance of the offence
under Section 498A of the Indian Penal Code, 1860 against the
petitioner herein.

3. The genesis of the present case arises out of



Complaint Case No. 362 (C) of 2017, instituted on the basis of a complaint dated 26.05.2017 filed by the O.P. No.2 (wife of petitioner) alleging commission of offence under Section 498A of the Indian Penal Code against the petitioner. As per the complaint, the marriage between the parties was solemnized on 25.11.2016 according to Hindu rites and customs, and it is alleged that soon thereafter the petitioner began subjecting the complainant (O.P. No.2) to cruelty in connection with demand of dowry, namely a Scorpio vehicle and a sum of Rs. 10,00,000/-. It is further alleged that the complainant (O.P. No.2) was taken to her parental home where such demand was reiterated before her family members and, upon non-fulfilment of the same, she was subjected to mental harassment and neglect.

4. On the basis of the said allegations and upon perusal of the materials available on record, the learned Trial Court, after inquiry under Section 202 of the Cr.P.C. and examination of three complaint witnesses, found a *prima facie* case under Section 498A of the Indian Penal Code and directed issuance of summons against the petitioner *vide* the impugned order dated 25.01.2018. Being aggrieved by the said order of cognizance, the petitioner has approached this Court through the



present Criminal Miscellaneous Application for quashing the impugned order dated 25.01.2018.

5. Learned counsel for the petitioner submits that the impugned order taking cognizance is wholly unsustainable in the eyes of law, as the complaint petition, even if taken at its face value, does not disclose the essential ingredients of “cruelty” as contemplated under Section 498A of the Indian Penal Code. It is submitted that the allegations are vague, omnibus and bereft of specific instances of any willful conduct of such a nature as is likely to drive the complainant (O.P. No.2) to commit suicide or to cause grave injury, nor is there any material to show harassment with a view to coerce fulfilment of unlawful dowry demand. Learned counsel further submits that the learned Trial Court has mechanically proceeded to issue summons without appreciating that mere bald and general allegations of demand of dowry, without any supporting particulars or proximate acts of cruelty, cannot form the basis for criminal prosecution. He submits that the depositions of the inquiry witnesses recorded under Section 202 of the Cr.P.C. are materially inconsistent and contradictory to each other as well as to the version of the complainant (O.P. No.2), thereby rendering the prosecution story inherently doubtful and



unworthy of reliance even at the threshold stage.

6. Learned counsel for the petitioner further vehemently submits that the entire prosecution is a counterblast and an abuse of the process of the Court, instituted with an oblique motive to conceal the conduct of the complainant (O.P. No.2). Learned counsel submits that admittedly, soon after the marriage, the O.P. No.2 left her matrimonial home and was traced in the company of one Naiyar Nawaz, with whom she was having a prior relationship. It is submitted that in this regard, Kochadhaman P.S. Case No.246 of 2016 was instituted, and during investigation, the O.P. No.2, in her statement recorded under Section 164 of the Cr.P.C., categorically stated that she had left on her own volition and had not been kidnapped, pursuant to which final form was submitted treating the case as mistake of fact. Learned counsel, thus, submits that the complaint case has been subsequently engineered by giving a colour of dowry demand and cruelty to what is essentially a case arising out of the O.P No.2 own conduct and pre-existing relationship, in order to save herself from social and legal consequences. It is submitted that the inherent improbabilities and contradictions appearing from the record strike at the very root of the prosecution case and demolish the substratum of the



allegations.

7. Learned counsel further submits that continuation of the criminal proceeding in the present case would amount to gross abuse of the process of the Court, as the dispute is manifestly attended with *mala fide* and has been maliciously instituted with ulterior motives. It is submitted that the case squarely falls within the parameters laid down by the Hon'ble Supreme Court in the celebrated judgment of State of *State of Haryana and Ors. v. Bhajan Lal and Ors.*, reported in *1992 Supp (1) SCC 335*, particularly where the allegations are inherently improbable, absurd, and do not disclose the commission of any offence. He submits that this Court, in exercise of its inherent jurisdiction under Section 482 of the Cr.P.C., is duty bound to prevent abuse of the process of law and to secure the ends of justice by quashing the impugned order as well as the entire criminal proceeding arising therefrom.

8. Learned APP for the State submits that the record reflects certain inconsistencies between the version of the complainant (O.P. No.2) and the materials emerging from the earlier police case, including the statement of the complainant recorded under Section 164 of the Cr.P.C., wherein she is stated to have left on her own volition, leading to submission of final



form in the said case. It is thus submitted that the matter be adjudicated by this Hon'ble Court in light of the settled principles governing exercise of jurisdiction under Section 482 Cr.P.C., including those enunciated in ***State of Haryana v. Bhajan Lal (supra)***, and appropriate orders be passed in accordance with law.

9. Despite repeated opportunities having been granted, no one has appeared on behalf of O.P. No. 2 to contest the present application. Accordingly, this Court proceeds to consider and decide the present application on the basis of the materials available on record and the submissions advanced on behalf of the petitioner and the State.

10. Having heard the learned counsel for the petitioner as well as learned APP for the State and upon perusal of the materials available on record, this Court finds that the scope of interference under Section 482 of the Cr.P.C is well-settled. The inherent jurisdiction is to be exercised sparingly, with circumspection, and only in cases where the allegations made in the complaint, even if taken at their face value and accepted in entirety, do not disclose the commission of any offence, or where the proceedings are manifestly attended with *mala fide* and instituted with an ulterior motive for wreaking



vengeance or to abuse the process of the Court. In matrimonial disputes, particularly those arising out of allegations under Section 498A of the Indian Penal Code against the husband, the Court is required to carefully scrutinize whether the basic ingredients of “cruelty” are *prima facie* made out, and whether the allegations are specific and supported by material, or merely general and omnibus in nature. It is equally settled that where the criminal proceeding appears to be a counterblast to earlier events or is founded upon inherently improbable and contradictory allegations, continuation of such proceeding would amount to abuse of the process of law. In such circumstances, the principles laid down by the Hon’ble Supreme Court in *State of Haryana v. Bhajan Lal (supra)* guide the exercise of jurisdiction, empowering this Court to quash the proceedings to secure the ends of justice.

11. At this stage, it is pertinent to make factual analysis of the case in order to guide the route of the present order.

12. Upon a careful consideration of the complaint petition, the statement on solemn affirmation of the complainant (O.P. No.2) and the depositions of the inquiry witnesses recorded under Section 202 of the Cr.P.C., it transpires that the



allegations with regard to demand of dowry and cruelty are general and lacking in material particulars. Though it has been alleged that a four-wheeler and a sum of Rs. 10,00,000/- were demanded, there is no specific instance of any overt act or conduct on the part of the petitioner which would satisfy the ingredients of “cruelty” as defined under Section 498A of the Indian Penal Code. The statements of the witnesses also do not disclose any proximate act of harassment or ill-treatment, rather they contain improvements and variations, thereby rendering the prosecution version doubtful at the very threshold.

13. Further, from the materials on record, it is evident that immediately after the marriage, the complainant (O.P. No.2) had left her matrimonial home and was subsequently traced in the company of one Naiyar Nawaz. In connection with her disappearance, Kochadhaman P.S. Case No. 246 of 2016 was instituted, wherein the O.P. No.2, in her statement recorded under Section 164 of the Cr.P.C., categorically stated that she had left on her own volition and had not been subjected to any coercion or kidnapping, which ultimately led to submission of final form treating the case as mistake of fact. This aspect assumes significance inasmuch as it creates a serious dent in the prosecution story and probabalizes the defence version that the



O.P. No.2 was in a pre-existing relationship and had voluntarily left the house.

14. Moreover, the subsequent institution of the present complaint case, wherein allegations of dowry demand and cruelty have been levelled, appears to be an afterthought and a clear attempt to give a different colour to the earlier incident. The inconsistencies between the version of the O.P. No.2 in the present complaint and her earlier statement under Section 164 of the Cr.P.C., coupled with the contradictory depositions of the inquiry witnesses, go to the root of the matter and render the allegations inherently improbable. In such circumstances, the continuation of the criminal proceeding against the petitioner would not only be unjustified but would also amount to an abuse of the process of the Court.

15. 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:

“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.”

16. The Hon’ble Supreme Court in ***Dara Lakshmi Narayana & Ors. v. State of Telangana & Anr.***, reported in (2025) 3 SCC 735 has held as under:

“30. *The inclusion of Section 498-A IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498-A IPC as a tool*



for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinised, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498-A IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.”

17. The Hon’ble Supreme Court has observed in ***Ghanshyam Soni v. State (Govt. of NCT of Delhi) and Anr.***, reported in **2025 SCC OnLine SC 1301**, 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. We cannot ignore the fact that the Complainant even withdrew her second Complaint dt. 06.12.1999 six days later on 12.12.1999. There is also no evidence to



substantiate the purported demand for dowry allegedly made by the Appellant or his family and the investigative agencies in their own prudence have not added sections 3 & 4 of the Dowry Prohibition Act, 1961 to the chargesheet.”

18. Moreover, 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 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)

19. In view of the discussions made hereinabove, this Court is of the considered opinion that the allegations levelled in the complaint petition, even if taken at their face value, do not *prima facie* constitute the offence under Section 498A of the Indian Penal Code against the petitioner. The materials on record, including the statement of the complainant recorded under Section 164 of the Cr.P.C. in the earlier police case and the contradictory versions emerging from the inquiry witnesses, clearly indicate that the present prosecution is manifestly attended with *mala fide* and has been instituted with an ulterior motive. It is also pertinent to note that the petitioner has been granted a decree of divorce by a competent Court vide judgment dated 17.12.2018 passed in Matrimonial Case No. 13 of 2017 against the O.P. No. 2. It is appropriate to say that the present case squarely falls within the guidelines provided by the Hon'ble Apex Court in the ***State of Haryana v. Bhajan Lal (supra)*** and ***Pradeep Kumar Kesarwani v. State of Uttar Pradesh & Anr.***, reported in ***2025 SCC OnLine SC 1947***. Therefore, continuation of such criminal proceeding would amount to abuse of the process of the Court.

20. Accordingly, the impugned order dated



25.01.2018 passed by the learned Chief Judicial Magistrate, Kishanganj, in connection with Complaint Case No. 362 (C) of 2017, taking cognizance under Section 498A of the Indian Penal Code and directing issuance of summons against the petitioner, is hereby quashed. Consequently, the entire criminal proceeding arising out of the said complaint case stands set aside.

21. Resultantly, the present Criminal Miscellaneous Application stands allowed.

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

(Sunil Dutta Mishra, J)

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