

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40033 of 2018

Arising Out of PS. Case No.-542 Year-2000 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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1. Pushpa Devi @ Pushpa Mishra, W/o Harendra Kumar Mishra, resident of Village- Bath, P.S.- Bath, District- Bhagalpur.
 2. Harendra Kumar Mishra, S/o Late Prahalad Mishra, resident of Village- Bath, P.S.- Bath, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ramesh Chandra Choubey, Son of Late Bindeshwary Prasad Choubey, R/o- Tilka Manjhi Hatia Road PS- Barari, Dist- Bhagalpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh, Advocate
For the Opposite Party/s : Mr. S. Ehteshamuddin, APP

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

7 07-04-2026 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 for quashing the order dated 19.03.2001 passed by learned Sub-Divisional Judicial Magistrate, Bhagalpur (hereinafter referred to as 'Magistrate') in connection with G.R. No.2048 of 2000 arising out of Kotwali P.S. Case No.542 of 2000 wherein learned Magistrate took cognizance of the offence under Section 498A of the Indian Penal Code, 1860 and under Sections 3 and 4 of the Dowry Prohibition Act, 1961 against the petitioners herein who are in-laws of the victim, namely, Late Sangeeta



Kumari.

3. The factual matrix, in brief, as per the informant (O.P. No.2 herein), is that his daughter, Late Sangeeta Kumari was married to Gopal Prasad Pandey (brother of petitioner no.1) on 22.04.1996, whereafter she was subjected to cruelty and harassment in connection with demand of dowry by her matrimonial family members. Subsequent to her marriage, it has been alleged that Sangeeta Kumari was diagnosed with cancer yet the behaviour of her in-laws did not change towards her and she was given needful treatment by the informant (O.P. No.2). Thereafter, in-laws of Sangeeta Kumari including petitioner no.1 and petitioner no.2, lured her husband Gopal Prasad Pandey of solemnizing second marriage. It has been alleged that the husband of Sangeeta Kumari left her at her paternal home and the gifts including jewellery, utensils, clothes, etc. were kept by her in-laws at her matrimonial home. On such allegations, FIR bearing Kotwali P.S. Case No.542 of 2000 was registered and after investigation, police submitted the charge-sheet.

4. Upon perusal of the materials available on record, learned Magistrate took cognizance of the offence under Section 498A of the Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act against the petitioners *vide* the



impugned order dated 19.03.2001. Aggrieved by the impugned order of cognizance passed by the learned Magistrate, petitioners have filed the present Criminal Miscellaneous Application before this Court.

5. Learned counsel for the petitioners submits that the impugned order taking cognizance is wholly unsustainable in the eyes of law, as the same has been passed in a mechanical manner without proper application of judicial mind by the learned Magistrate. He submits that the petitioners are relatives of the husband of the deceased and were residing separately at their respective places, having no concern with the alleged occurrence. Learned counsel further submits that no specific allegation or overt act has been attributed to them either in the FIR or during the course of investigation. He further submits that prior to institution of the present FIR, the informant (O.P. No.2) had filed a complaint case bearing Complaint Case No. 973 of 2000, wherein the petitioners were not arrayed as accused persons, which clearly indicates that their implication in the present case is an afterthought.

6. Learned counsel further submits that the materials collected during investigation do not disclose any *prima facie* case against the petitioners and none of the witnesses have



supported the allegations so far as these petitioners are concerned. Learned counsel also submits that the victim was admittedly suffering from cancer and was undergoing treatment at various places, including Tata Memorial Hospital, Bombay, and her death occurred due to prolonged illness. It is submitted that in such circumstances, continuation of the criminal proceeding against the petitioners would amount to abuse of the process of the Court and, therefore, the impugned order taking cognizance is fit to be quashed in the interest of justice.

7. Learned APP for the State opposes the prayer for quashing and submits that the impugned order has been passed after due consideration of the materials available on record. It is submitted that the FIR disclose allegations relating to cruelty and harassment in connection with demand of dowry, and the learned Magistrate has rightly taken cognizance upon finding *prima facie* case against the accused persons, including the present petitioners.

8. It further appears from the record that the victim, namely Sangeeta Kumari, as well as O.P. No.2 (informant) have died during pendency of the present proceeding.

9. In the aforesaid backdrop, this Court has carefully perused the FIR, the materials available on record as well as the



impugned order taking cognizance. The scope of interference at the stage of cognizance is limited to examining whether a *prima facie* case is made out from the materials on record and whether continuation of the criminal proceeding would amount to abuse of the process of the Court.

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 ***Kahkashan Kausar v. State of Bihar*** 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.”

12. 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)

13. On a careful and holistic examination of the entire materials available on record, it appears that the prosecution case against the present petitioners is primarily founded on general allegations without any specific attribution of role. The FIR, which has been instituted on the basis of the statement of the informant (O.P. No.2), does not disclose any distinct or particular act of cruelty or harassment committed by these petitioners. It further transpires that there is no specific allegation against the petitioners. The petitioners are married



sister and brother-in-law of the husband of the deceased who were residing separately at their respective native places, away from the place of occurrence, which further weakens the prosecution case against them in absence of any specific allegation regarding their participation.

14. It further appears from the materials brought on record that the deceased was suffering from cancer and had been undergoing treatment at several places, including Tata Memorial Hospital, Bombay. The documents annexed indicate that she was under continuous medical care prior to her death. In such background, the cause of death assumes significance, particularly when there is absence of any clear material indicating that the petitioners had subjected the deceased to cruelty or harassment in connection with dowry demand. Thus, upon cumulative consideration of the material available on record, this Court finds that there is no substantive material to indicate the involvement of the present petitioners in the alleged offence. The allegations, being general in nature and not supported by any specific evidence, fail to disclose a *prima facie* case against the present petitioners.

15. In such circumstances, this Court is of the considered view that the continuation of the criminal proceeding



against the present petitioners would amount to abuse of the process of the Court, particularly when the materials on record do not disclose the essential ingredients of the alleged offences so far as these petitioners are concerned.

16. Accordingly, the impugned order dated 19.03.2001 passed by the learned Sub-Divisional Judicial Magistrate, Bhagalpur in connection with G.R. No.2048 of 2000 arising out of Kotwali P.S. Case No.542 of 2000, so far as it relates to the present petitioners, is hereby quashed.

17. Resultantly, the entire criminal proceeding against the petitioners stands set aside.

18. The present Criminal Miscellaneous Application is, accordingly, allowed.

19. The Interim Order granting stay of proceeding of Kotwali P.S. Case No.542 of 2000 is vacated.

20. Let a copy of this Order be communicated to the concerned Court forthwith.

(Sunil Dutta Mishra, J)

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