

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.358 of 2018

Arising Out of PS. Case No.-656 Year-2014 Thana- BHABHU(KAIMUR) COMPLAIN C
District- Kaimur (Bhabua)

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1. Shyam Jee Singh
 2. Chhatrabali Singh
Both sons of Vakil Singh
 3. Vakil Singh
 4. Rambahadur Singh
Both sons of Late Chandrama Singh
 5. Sunil Kumar Singh, S/o Rambahadur Singh,
All residents of village - Bentiaryi, P.S. - Iliya, District - Chandaul U.P.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bashisth Narayan Singh son of Late Dinanath Singh, Resident of Village -
Kekada, P.S. - Chand, Dist - Kaimur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ravi Shankar Sahay, Advocate
For the State	:	Mr. Shantanu Kumar, APP
For the O.P. No.2	:	Mr. Shiopujan Singh, Advocate
		Mr. Mukesh Kr. Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

12 11-05-2026 1. Heard learned counsel for the petitioners and

learned counsel for the O.P. No.2 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

20.05.2015 passed by the Court of learned C.J.M., Kaimur at

Bhabhua (hereinafter referred to as 'Magistrate') in connection

with Complaint Case No.656 of 2014, wherein the learned



Magistrate took cognizance of the offence under Sections 406, 420 and 120B of the Indian Penal Code, 1860 against the petitioners, who are in-laws of the daughter of the O.P. No.2.

3. Briefly stated, the prosecution case as alleged in the complaint petition is that the daughter of the complainant (O.P. No.2), Bashisth Narayan Singh, was married to petitioner no.5, however, due to matrimonial discord, the parties decided to dissolve their marriage by mutual consent upon settlement of permanent alimony amounting to Rs. 35,00,000/-. It is alleged that out of the said amount, a sum of Rs. 30,00,000/- was paid to the daughter of the complainant (O.P. No.2) through one Hari Shankar Singh, who is stated to be the mediator, whereas the remaining amount of Rs. 5,00,000/- was sought to be paid through cheque, which allegedly could not be encashed on account of insufficiency of funds in the bank account of the accused persons. On the basis of the said allegation, Complaint Case No.656 of 2014 came to be instituted alleging commission of offences under Sections 406, 420 and 120B of the Indian Penal Code against the petitioners.

4. Upon considering the solemn affirmation of the complainant (O.P. No.2), the statements of the inquiry witnesses recorded during the inquiry and the materials available on



record, the learned Magistrate found *prima facie* case to be made out against the petitioners and accordingly took cognizance of the offences punishable under Sections 406, 420 and 120B of the Indian Penal Code *vide* the impugned order dated 20.05.2015 passed in in Complaint Case No.656 of 2014. Being aggrieved by the said impugned order of cognizance and the entire criminal proceeding arising therefrom, the present Criminal Miscellaneous Application has been preferred.

5. During the pendency of the present case, petitioner nos.3, 4 and 5 have already died. Petitioner no.3 was the uncle-in-law, petitioner no.4 was the father-in-law and petitioner no.5 was the husband of the daughter of O.P. No.2. Petitioner nos. 1 and 2 are cousin of petitioner no.5, who are still alive. Therefore, the present application survives only with respect to petitioner no.1 and 2 only.

6. Learned counsel for the petitioners submits that the impugned order of cognizance suffers from complete non-application of judicial mind inasmuch as the learned Magistrate failed to appreciate that even if the entire allegations made in the complaint petition are taken at their face value, no offence under Sections 406, 420 or 120B of the Indian Penal Code is made out against the petitioners. He submits that the admitted



case of the complainant (O.P. No.2) itself is that the matrimonial dispute between the daughter of the O.P. No.2 and petitioner no.5 had already been settled amicably and pursuant thereto a mutual divorce petition was filed before the competent Family Court, Chandauli which was finally allowed *vide* judgment dated 10.04.2014 passed in Matrimonial Case No. 366 of 2013. Learned counsel further submits that in the said proceeding the wife of petitioner no.5 had categorically stated before the Family Court that she had received the entire agreed amount and nothing remained due against her husband or his family members. It is submitted that after culmination of the matrimonial dispute and decree of divorce on mutual consent, the subsequent institution of the present complaint case is wholly malicious and an abuse of the process of the Court.

7. Learned counsel for the petitioners further submits that the entire prosecution case revolves around an alleged cheque of Rs. 5,00,000/- said to have been handed over through inquiry witness no.3, namely Hari Shankar Singh, who admittedly acted as mediator between the parties. Learned counsel submits that the said witness himself appears to be the main architect behind the institution of the present complaint case and there is no allegation whatsoever to show any



dishonest inducement or entrustment so as to constitute offences under Sections 420 or 406 of the Indian Penal Code. It is submitted that, at best, the allegations, even if accepted in entirety, may give rise to a proceeding under Section 138 of the Negotiable Instruments Act and not for the offences for which cognizance has been taken. Learned counsel accordingly submits that continuation of the criminal proceeding against the surviving petitioners would amount to misuse of the criminal justice system and, therefore, the impugned order as well as the entire criminal proceeding are fit to be quashed in exercise of inherent jurisdiction of this Court.

8. Learned counsel for O.P. No.2 opposes the prayer for quashing and submits that the allegations made in the complaint petition, coupled with the statements recorded during inquiry, clearly disclose *prima facie* commission of offences under Sections 406, 420 and 120B of the Indian Penal Code against the petitioners. It is submitted that disputed questions of fact are involved in the present matter which cannot be adjudicated in a proceeding under Section 482 of the Cr.P.C. and, therefore, the petitioners ought to face trial before the learned Magistrate.

9. Learned APP for the State also opposes the



application and submitted that the learned Magistrate, upon consideration of the materials available on record, has rightly taken cognizance against the petitioners and, at the stage of cognizance, meticulous appreciation of evidence is not required.

10. Having heard learned counsel for the parties and upon perusal of the materials available on record, this Court is conscious of the settled legal position that the inherent jurisdiction under Section 482 of the Cr.P.C. is to be exercised sparingly, with circumspection and only to prevent abuse of the process of the Court or otherwise to secure the ends of justice. Though, at the stage of cognizance or quashing, the Court is not expected to meticulously appreciate the evidentiary value of the materials collected during inquiry or investigation, yet where the uncontroverted allegations made in the complaint petition and the materials brought on record fail to disclose the essential ingredients constituting the alleged offences or where continuation of the criminal proceeding would amount to abuse of the process of law, the High Court would be justified in exercising its inherent jurisdiction to quash the criminal proceeding.

11. Admittedly, the entire dispute emanates from a matrimonial discord between the daughter of O.P. No.2 and



petitioner no.5, which ultimately culminated into a decree of divorce by mutual consent passed by the competent Family Court vide judgment dated 10.04.2014. The materials available on record further indicate that before the Family Court the wife of petitioner no.5 had specifically acknowledged that she had received the agreed settlement amount and nothing further remained due against the petitioners. Surprisingly, despite being the principal and most material person in relation to the alleged non-payment, the daughter of O.P. No.2 was neither examined as an inquiry witness during the proceeding nor has any explanation been furnished for her non-examination. In the opinion of this Court, such omission assumes significance particularly when the entire prosecution case is founded upon an alleged unpaid amount said to be payable for her benefit alone.

12. This Court further finds from the complaint petition itself that the alleged cheque of Rs. 5,00,000/- was not issued directly in favour of the daughter of O.P. No.2, rather the same is alleged to have been handed over to the inquiry witness no.3, namely Hari Shankar Singh, who admittedly acted as mediator between the parties and also happens to be related to both sides. The said witness appears to be the pivot of the entire prosecution story. Even according to the complaint allegations,



it was inquiry witness no.3 who allegedly received the cheque and subsequently informed the complainant (O.P. No.2) about insufficiency of funds in the account of the accused persons. However, there is nothing on record to show that before institution of the complaint case, the petitioners were ever informed by the said witness regarding dishonour or non-clearance of the cheque. The conduct of the said witness, coupled with the admitted settlement before the Family Court, creates serious doubt over the genuineness of the prosecution story.

13. Moreover, this Court finds substance in the submission advanced on behalf of the petitioners that even if the allegations are accepted in their entirety, the same predominantly disclose a dispute of civil nature arising out of alleged non-payment of money and do not satisfy the essential ingredients constituting the offences under Sections 406 and 420 of the Indian Penal Code. There is no material indicating any dishonest intention on the part of the petitioners from the very inception of the transaction nor is there any allegation of entrustment and subsequent dishonest misappropriation of property. Rather, from the admitted facts, it appears that the matrimonial dispute had already attained finality upon mutual



settlement and decree of divorce and the present criminal proceeding has been instituted thereafter, apparently giving a criminal colour to what is essentially a private monetary dispute.

14. In the facts and circumstances of the present case, this Court finds that the case of the 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 criminal proceedings may be quashed where the allegations made in the complaint, even if taken at their face value and accepted in entirety, do not *prima facie* constitute any offence or where the proceeding is manifestly attended with *mala fide* and has been maliciously instituted with ulterior motive for wreaking vengeance. This Court further finds support from the principles reiterated by the Hon'ble Supreme Court in *Pradeep Kumar Kesarwani v. State of Uttar Pradesh & Anr.*, reported in *2025 SCC OnLine SC 1947* wherein it has been observed that criminal prosecution should not be permitted to continue when the dispute is predominantly civil in nature and the essential ingredients of the alleged criminal offences are absent. Applying the aforesaid settled principles to the facts of the present case, particularly the admitted settlement before the



Family Court, the acknowledgment of receipt of settled amount by the daughter of O.P. No.2, her non-examination as inquiry witness and the fact that the alleged cheque was admittedly issued through a third-party mediator, this Court is of the considered opinion that continuation of the present criminal proceeding would amount to abuse of the process of the Court and interference under Section 482 of the Cr.P.C. is warranted.

15. Accordingly, the present Criminal Miscellaneous Application is allowed. The impugned order dated 20.05.2015 passed by the learned C.J.M., Kaimur at Bhabua in Complaint Case No.656 of 2014, whereby cognizance has been taken for the offences punishable under Sections 406, 420 and 120B of the Indian Penal Code against the petitioners, as well as the entire criminal proceeding arising therefrom, so far as the surviving petitioners are concerned, are hereby quashed and set aside.

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

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

(Sunil Dutta Mishra, J)

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