

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2885 of 2018

Arising Out of PS. Case No.-162 Year-2010 Thana- BARAULI District- Gopalganj

1. Pintu Tiwary, S/o Prabhunath Tiwary
2. Bhagmani Devi, W/o Prabhunath Tiwary
3. Satish Tiwary, S/o Prabhunath Tiwary. All are residents of Village-Basantpur Mathia, P.O. Basantpur, Police Station- Basantpur, District Siwan.
4. Suman Tiwary, S/o Prabhunath Tiwary
5. Usha Devi, Wife of Suman Tiwary, Resident of Mohalla- Gandhi Maidan, Siwan, Police Station - Town Thana, District Siwan.
6. Sanjeev Kumar @ Sanjeev Tiwary, S/o Prabhunath Tiwary
7. Puja Devi, W/o Sanjeev Kumar @ Sanjeev Tiwary, Resident of Mohalla-Bank More, Rangatard, Police Station- Bank More, District Dhanbad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pinki Devi, W/o Pintu Tiwary, D/o Surendra Upadhyay, Resident of Village-Basantpur Mathia, Police Station- Basantpur, District Siwan at Present residing at Village- Dewapur, Police Station- Baraul, District Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Mishra, Advocate
For the State	:	Mr. Shantanu Kumar, APP
For the O.P. No.2	:	Mr. Uday Pratap Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

8 28-04-2026 *Vide* order dated 06.04.2026, the application with respect to petitioner no.1, namely, Pintu Tiwary, was dismissed as not pressed.

2. Heard learned counsel for the petitioner nos.2 to 7 as well as learned counsel for the opposite party no.2 and learned APP for the State.

3. The present application has been filed under Section 482 of the Code of Criminal Procedure, 1973



(hereinafter referred to as 'Cr.P.C.') for setting aside the order date 07.06.2014 passed by the learned Sub-Divisional Judicial Magistrate, Gopalganj (hereinafter referred to as 'Magistrate') in connection with Tr. No.1714 of 2017 arising out of Barauli P.S. Case No.162 of 2010, wherein the learned Magistrate took cognizance of the offences under Sections 341, 323, 498A, 504 read with Section 34 of the Indian Penal Code, 1860 and under Sections 3 and 4 of the Dowry Prohibition Act, 1961 against all the accused persons.

4. Brief facts of the case, as emerging from the complaint, are that the opposite party no.2, who is the legally wedded wife of petitioner no.1, alleged that her marriage was solemnized on 09.06.2002 in accordance with Hindu rites and rituals and at the time of marriage, her family had given cash, ornaments, clothes and other articles as per their capacity. It is alleged that after some time of the marriage, all the accused persons, including petitioner nos.2 to 7, started subjecting her to cruelty on account of demand of additional dowry and, pursuant to such demand, a motorcycle and further cash were also given by her family members. However, despite the same, the demand allegedly continued to escalate and she was subjected to physical as well as mental harassment, including abuses and



threats of second marriage on the ground of her being issueless. It has further been alleged that a *Panchayati* was convened to resolve the dispute, but the accused persons (petitioners herein) remained adamant in their demands and conduct. The complaint further discloses that on the alleged date of occurrence, the accused persons assaulted the complainant (O.P. No.2), forcibly took her in a vehicle and abandoned her near Mirzapur More, from where she was rescued by a local person who informed her family members. Thereafter, she was taken for medical treatment and, upon recovery, O.P No. 2 filed the complaint being Complaint Case No.2406 of 2010, which was subsequently forwarded for registration of F.I.R and investigation. Accordingly, on the basis of the complaint, the F.I.R was registered as Barauli P.S. Case No.162 of 2010, culminating in submission of charge-sheet.

5. Upon perusal of the materials available on record, including the complaint petition, statements recorded during inquiry/investigation and the charge-sheet submitted by the police, the learned Magistrate, finding a *prima facie* case, proceeded to take cognizance of the offences under Sections 341, 323, 498A, 504 read with Section 34 of the Indian Penal Code as well as under Sections 3 and 4 of the Dowry



Prohibition Act against the petitioners *vide* the impugned order dated 07.06.2014 in connection with Tr. No.1714 of 2017 arising out of Barauli P.S. Case No.162 of 2010. Aggrieved by the impugned order of the cognizance, the present Criminal Miscellaneous Application has been filed for setting aside the same.

6. Learned counsel for the petitioner nos.2 to 7 submits that the impugned order taking cognizance is wholly mechanical and has been passed without proper appreciation of the materials available on record. Learned counsel further submits that the allegations made in the complaint petition are omnibus, vague and general in nature, without attributing any specific overt act to the individual petitioners. It is further submitted that the dispute between the parties is purely matrimonial in nature, arising out of incompatibility and personal differences between husband and wife, which has been given a criminal colour by falsely implicating the entire family. Learned counsel further submits that the continuation of the criminal proceeding against the petitioner nos.2 to 7 would amount to abuse of the process of the Court.

7. Learned counsel for petitioner nos.2 to 7 further submits that most of the petitioners are either aged, infirm or



living separately at different places and have been unnecessarily dragged into the present case merely to exert pressure on husband of the opposite party no.2. It is further submitted that petitioner no.2 is an aged and handicapped lady, while other petitioners are residing at different places on account of their independent avocation and livelihood. It is also submitted that the opposite party no.2 herself was unwilling to reside in her matrimonial home and had initiated separate maintenance proceedings, and the present case has been instituted as a counterblast. Learned counsel, therefore, prays that the impugned order is not sustainable in the eye of law and is fit to be quashed.

8. Learned counsel for opposite party no.2 supports the impugned order and submits that the learned Magistrate has rightly passed the impugned order upon due consideration of the materials collected during investigation, which clearly disclose a *prima facie* case against the petitioners. It is submitted that the complaint petition and the statements of the witnesses consistently support the allegations of demand of dowry and cruelty, and at this stage, meticulous appreciation of evidence is neither required nor permissible. Learned counsel further submits that the petitioners have subjected the opposite party



no.2 to continuous physical and mental harassment, compelling her to leave her matrimonial home, and therefore, the criminal proceeding cannot be said to be an abuse of the process of the Court. Learned counsel submits that the present application is devoid of merit and is liable to be dismissed.

9. Learned APP for the State submits that upon perusal of the materials on record collected during investigation, including the statements of the informant (opposite party no.2) and other witnesses, the learned Magistrate has rightly taken cognizance. However, he submits that petitioner nos. 2 to 7 are the in-laws of opposite party no.2 and appropriate order may be passed in the interest of justice.

10. Having heard the learned counsel for the petitioner nos.2 to 7, learned counsel for the opposite party no.2 and the learned APP for the State, and upon perusal of the materials available on record, this Court proceeds to examine whether the impugned order warrants any interference by this Court in light of the settled principles governing exercise of inherent jurisdiction under Section 482 of the Cr.P.C.

11. 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.”

12. Similarly, 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)

13. It is well settled that the inherent jurisdiction of this Court under Section 482 of the Cr.P.C. is to be exercised sparingly and with circumspection, particularly in cases arising out of matrimonial disputes involving allegations under Section 498A of the Indian Penal Code. While the Court does not embark upon a meticulous appreciation of evidence at this stage, it is equally incumbent to examine whether the uncontroverted allegations, taken at their face value, disclose the essential



ingredients of the offences alleged against each of the accused. In cases where distant or separately residing relatives are implicated on the basis of general and omnibus allegations without any specific role attributed to them, the Court is duty-bound to prevent misuse of the criminal process and to secure the ends of justice by exercising its inherent powers.

14. In the present case, upon careful examination of the complaint petition and the materials brought on record, it appears that the allegations, though serious in nature, are largely general and omnibus so far as most of the petitioners are concerned. Except for petitioner no. 1, who is the husband, there is no specific and distinct allegation attributing any overt act to the other petitioners. The allegations against the family members are sweeping in nature and do not disclose their individual roles in the alleged occurrence. Moreover, it transpires from the record that several of the petitioners are residing separately at different places on account of their independent engagements, which lends support to the contention that they have been implicated in a routine manner.

15. It further appears that the dispute between the parties essentially stems from matrimonial discord between the husband and wife, and the criminal proceeding has been



initiated in the backdrop of such strained relationship. The materials on record also indicate that the opposite party no.2 was not willing to reside in her matrimonial home and had initiated maintenance proceedings, which suggests existence of underlying personal disputes. In such circumstances, allowing the criminal prosecution to continue against the petitioner nos.2 to 7, particularly those against whom no specific allegations have been made, would amount to abuse of the process of the Court, whereas the case of the husband stands on a different footing requiring independent consideration.

16. This Court further finds that the present case squarely falls within the principles 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* and *Pradeep Kumar Kesarwani v. State of Uttar Pradesh & Anr.*, reported in *2025 SCC OnLine SC 1947*. It is now well settled that where the allegations made in the complaint, even if taken at their face value, do not constitute an offence or where the proceedings are manifestly attended with *mala fide* and instituted with an ulterior motive for wreaking vengeance, the same are liable to be quashed in exercise of inherent jurisdiction. In the facts of the present case, the continuation of the criminal proceeding



against the petitioner nos.2 to 7, particularly the relatives against whom no specific allegations have been made, would result in abuse of the process of the Court and, therefore, warrants interference by this Court.

17. In view of the discussions made hereinabove and considering the facts and circumstances of the case, this Court finds that the impugned order of cognizance dated 07.06.2014 passed by the learned Sub-Divisional Judicial Magistrate, Gopalganj in connection with Tr. No.1714 of 2017 arising out of Barauli P.S. Case No.162 of 2010, cannot be sustained in the eye of law so far as the petitioner nos.2 to 7 are concerned.

18. Accordingly, the impugned order of cognizance dated 07.06.2014, is hereby set aside and the entire criminal proceeding, as against the petitioner nos.2 to 7, stands quashed.

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

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

(Sunil Dutta Mishra, J)

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