

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39633 of 2023

Arising Out of PS. Case No.-647 Year-2021 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Komal Nikhilesh Anand Wife of Nikhilesh Anand R/o Shree Laxmi Residency, C-1, Flat No. 1801, N.M. Joshi Marg, Opposite Byculla Railway Station, Byculla West, VTC - Mumbai, P.O. - VJB Udyan, Distt. - Mumbai, Maharashtra - 400027
 2. Nilima Suresh Gawand @ Nilima Wife of Suresh Gawand R/o Ganesh Darshan, B Wing, 5th Floor, Room No. 518, Balu Changu Patil, Opp. Ganesh Mandir, Umarchadi, Chinchbunder, Mumbai, Maharashtra - 400009
 3. Suresh Balkrishna Gawand @ Suresh Gawand @ Suresh Son of Balkrishna Gawand R/o B Wing, 5th Floor, Room No. 518, Balu Changu Patil, Opp. Ganesh Mandir, Umarchadi, Chinchbunder, Mumbai, Maharashtra - 400009
 4. Sagar Suresh Gawand @ Sagar @ Sagar Gawand Son of Suresh Gawand R/o Ganesh Darshan, B Wing, 5th Floor, Room No. 518, Balu Changu Patil, Opp. Ganesh Mandir, Umarchadi, Chinchbunder, Mumbai, Maharashtra - 400009

... .. Petitioner/s

Versus

1. The State of Bihar
2. Akhilesh Anand Son of Krishna Ballabh Singh Gram - Nadawa, P.S. - Barahiya Village plus Post - Barahiya, Distt. - Lakhisarai, Bihar and presently reside at C/o - Triveni Singh, R/o - Mohalla - Station Road Barh, P.S. - Barh, Distt. - Patna also reside at C/o Vijay Singh, Barh Station Road, ward no.2 Barh, Patna, Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vikash Kumar Jha, Advocate
For the State	:	Mr. Uday Pratap Singh, A.P.P.
For the O.P. No. 2	:	Mr. Arun Kumar Singh, Advocate

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL JUDGMENT

Date : 06-02-2026

Heard Mr. Vikash Kumar Jha, the learned
counsel for the petitioner and Mr. Uday Pratap Singh, the
learned A.P.P. for the State and Mr. Arun Kumar Singh, the
learned counsel appearing for the Opposite Party No.2.

2. The present application has been filed for
quashing of the order dated 26.08.2022 passed by the Court
of Judicial Magistrate First Class, Barh, Patna, in connection
with Complaint Case No. 647 (C) of 2021 whereby



cognizance of the offence under Sections 323, 341 and 379/34 of the I.P.C was taken.

3. The short facts of the case arising out of Complaint bearing complaint Case No. 647 (C) of 2021 relates to the petitioners having come to the house of the Opposite Party No. 2 and demanding Rs. 25,00,000/- (Twenty Five Lakh) from him and even threatening of dire consequences in case of non-payment of the said amount. Further, allegations against the petitioner nos. 1 and 4 are that they have snatched bags of the Opposite Party No. 2 containing jewellery worth Rs. 8,00,000/- (Eight Lakh) and also Rs. 40,000/-(Forty Thousand) cash along with some clothes and a sum of Rs. 20,000/- (Twenty Thousand) with some important documents.

4. The learned counsel for the petitioner has submitted that the present case is out and out a malicious prosecution in as much as this case came to be filed as a counter blast to filing of case under Section 498 A of the IPC against the brother of the Opposite Party No. 2 who was the husband of the petitioner no. 1. It has been pointed out that while petitioner no. 1 is the sister-in-law (bhabhi) of the Opposite Party No. 2, petitioner nos. 2, 3 and 4 are the mother, father and brother of petitioner no. 1 respectively. It has also been submitted that all the petitioners are residents of



Mumbai, Maharashtra and none of them were present at the alleged place of occurrence on 12.12.2021 and neither have they visited the said place any time in the month of December 2021. While petitioner no. 3 is senior citizen, petitioner no. 2 is the wife of the petitioner no. 3. With regard to petitioner no. 4, a copy of the train tickets and the booking receipt of the hotel at Rajasthan, has been brought on record by way of Annexure- 2 to 7 in order to show that he was travelling to Rajasthan from Bombay and during the period alleged, he was staying at Rajasthan and visiting places which are also substantiated by relevant documents. The marriage between the petitioner no.1 and the brother of the Opposite Party No. 2 had been solemnized on 11.12.2020 at Bombay and on account of torture and cruelty faced at the hands of her husband, petitioner no. 1 was compelled to register an FIR being Agripada P.S. Case No. 657 of 2021 dated 27.07.2021 for an offence under Section 498 A of the IPC and also a criminal complaint bearing Complaint Case No. 80/DV/21 under Sections 12 of the Protection of Women from the Domestic Violence Act, 2005 before the metropolitan Magistrate, Mazgoan, Mumbai. It is only after the brother of the Opposite Party No. 2 namely, Nikhilesh Anand, received notices in the complaint filed by the petitioner no. 1 that the present complaint case was filed on behalf of the Opposite



Party No. 2, who is the brother of the husband of the petitioner no. 1. It has also been additionally argued that with regard to insertion of Sections 323 and 341 of the IPC that no injury report has been attached by the Opposite Party No. 2 in order to support his statement made in the complaint. The learned counsel has relied upon the case of ***Bhajan Lal Vs. State of Haryana*** reported in ***1992 SCC (Cri) 426*** in order to contend that the present case squarely falls within the ambit of malicious prosecution and as such the cognizance order passed by the learned court concerned is fit to be quashed. An order of Co-ordinate Bench dated 24.04.2025 passed in Cr. Misc. No. 43317 of 2022 has also been brought to the notice of this Court which has been filed against the present petitioners by the father-in-law of the petitioner no. 1 that is the father of the present Opposite Party No. 2. The order of Co-ordinate Bench has taken into consideration the entire facts and circumstances of the case and after careful consideration of the applicability of the sections under which the cognizance was taken in the said case, as also considering the prosecution to be one attended with ulterior motives of wreaking vengeance against the petitioners, has held that the continuation of proceeding against the petitioners would be an abuse of the process of the Court and accordingly has quashed the order taking cognizance in the case filed by the



father-in-law of the petitioner no. 1 being Complaint Case No. 152 (C) of 2022.

5. After going through the entire record, it is apparent that the present case is a glaring example of malicious prosecution as the same has been filed only with a view to harass the petitioners and wreak vengeance from them since petitioner no. 1 had filed a case under Section 498 A of the IPC against her husband (brother of the Opposite Party No.2) and other family members and also filed a case under the Domestic Violence Act. It is clear from the perusal of the documents that only after issuance of notices in the case filed by the petitioner no. 1 that the Opposite Party No. 2, being the brother-in-law of petitioner no. 1, has taken recourse to filing the present case with oblique motives and evil design. This Court has also considered the fact that all the petitioners are residents of Mumbai and none of them were even present at the time of occurrence and substantial documents have been filed on behalf of the petitioner to substantiate the said fact. This Court also take a serious view of the situation that the malice carried by the Opposite Party No. 2 is to such an extent that not only the present case but other criminal cases with absolutely false and baseless allegations are filed against the petitioners by different persons of the family only with a view



to cause undue harassment to these petitioners. Moreover, the order taking cognizance under Sections 323, 341 and 379 of the I.P.C would also not stand in view of the fact that none of the offences appear to be made out against the petitioners and the allegations as stated earlier apparently seem to be false, baseless and concocted.

6. Learned A.P.P. for the State and learned counsel for the Opposite Party No. 2, however, oppose the present application for quashing of the order dated 26.08.2022.

7. Taking into consideration all the above mentioned facts and circumstances, this Court, finds that the allegations made in the complaint are so absurd and inherently improbable, that no prudent mind can come to a conclusion that there are sufficient ground for proceeding against the petitioners as it can hardly be believed that petitioners and her parents and siblings would go to her own matrimonial house and indulge in making demand of money and steal away bags of jewellery and cash. In similar facts, earlier, a Bench of this Court had considered the absurdity of allegations and malicious prosecution, as good grounds to quash the proceedings, in the case of ***Girija Prasad Singh & Anr. vs. State of Bihar & Anr.*** reported in ***2013(2) BBCJ 103: 2012 SCC Online Pat 458***. The Hon'ble Apex Court also has held in the case of ***Manoj Mahavir Prasad Khaitan vs. Ram***



Gopal Poddar & Anr., reported in **2011 (1) PLJR 23 (SC)**, in similar factual scenario that the High Court has tremendous power to pass an order in the interest of justice where allegations are so absurd that no reasonable man would accept the same. Para 10 of the abovementioned judgment is being quoted here under:-

*“10. The learned counsel for the appellant is, therefore, right in contending that the complaint had to be quashed, firstly, because it was absurd and secondly, because the complainant/respondent No. 1 wholly lack the bona fides in filing such complaint which was absurd. The learned Counsel for the respondent No. 1 vehemently argued that at this stage, what was to be seen was only the contents of the complaint and if there appeared the basic contentions indicating committing of crime by the appellant/accused, then the Courts would not interfere with the same and leave the parties to lead evidence during the ensuing trial, relying on the oft-quoted decision in **State of Haryana & Ors. vs. Bhajan Lal & Ors.** [1992 Supp.(1) SCC 335]. There can be no dispute about the law laid down in that case. However, where on the face of it the absurd charges are levelled and there is a whole lack of the bona fides of the complainant/respondent No. 1, in our opinion, there would be no fetter in using the powers under Section 482 Cr.P.C.”*

8. Thus, considering the present proceeding to be one glaring case of malacious prosecution coupled with the ground of absurdity of allegations, covered both by clause (5) and (7) of **Bhajan Lal (supra)**, this Court would proceed to quash the order dated 26.08.2022 as the continuation of any



criminal proceeding in the present matter against the petitioners would only be an abuse of the process of the Court and would cause grave miscarriage of justice.

9. Accordingly, the order dated 26.08.2022 passed by learned Judicial Magistrate 1st Class, Barh, Patna in connection with Complaint Case No. 647 (C) of 2021 are quashed and the application stands allowed.

(Soni Shrivastava, J)

vashudha/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	12.02.2026
Transmission Date	NA

