

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53888 of 2018**

Arising Out of PS. Case No.-51 Year-2016 Thana- ROSHANGANJ District- Gaya

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1. Md. Akber Hussain, son of Sah Mohamad Miyan,
 2. Mahatbun Parveen, W/o Md. Akber Hussain,
 3. Nikhat Parveen @ Nikhat Perween, D/o Md. Akber Hussain,
 4. Md. Tabrez Alam @ Tabrez Alam, S/o Md. Akber Hussain, petitioner No. 1 to 4 Resident of Mohalla- Shamsheer Nagar Pandarpala, P.S.- Bhuli, District- Dhanbad Jharkhand.
 5. Azmat Hussain, Son of Sah Mohamad Miya,
 6. Salamat Hussain, Son of Sah Mohamad Miya, petitioner no. 5 and 6 are resident of Village- Kolhubar, P.S.- Dumariya, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ruhi Praveen, W/o Pervez Alam, D/o Md. Kamruddin Ansari, Resident of Village- Bhaluhar, P.S.- Banke Bazar, District- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Singh, Advocate
For the O.P. No.2	:	Mr. Praveen Kumar, Advocate
		Mr. Deepak Kumar, Advocate
For the State	:	Mr. Bharat Bhushan, A.P.P

**CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER**

7 16-06-2026 1. Heard learned counsel for the parties as well as learned A.P.P. for the State.

2. The present application has been filed for quashing of the order dated 24.08.2016 (hereinafter referred to as 'impugned order') passed by the learned S.D.J.M., Sherghati (Gaya) (hereinafter referred to as 'Trial Court') in connection with G.R. No. 640 of 2016 arising out of Raushanganj (Banke Bazar) P.S. Case No. 51 of 2016, whereby cognizance has been taken for the offences punishable under Section 498A read with



Section 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Dowry Prohibition Act, 1961 against the petitioners herein and also against the husband of the O.P. No.2.

3. The prosecution case, in brief, is that the marriage of O.P. No.2 (informant) was solemnized with the son of petitioner nos. 1 and 2 on 29.04.2015 according to Muslim rites and customs. It is alleged that after marriage, the accused persons expressed dissatisfaction with the articles given in marriage and demanded a further sum of Rs. 3,00,000/- as dowry. Upon failure to fulfill the said demand, the informant (O.P. No.2) was allegedly subjected to physical and mental cruelty and was ultimately driven out from her matrimonial house after snatching her ornaments. On the basis of the said allegations, O.P. No.2 instituted complaint case bearing Complaint Case No. 123 of 2016 before the Court of the learned A.C.J.M., Sherghati, Gaya, which was subsequently sent for investigation under Section 156(3) Cr.P.C. and, accordingly, was registered as F.I.R. bearing Raushanganj (Banke Bazar) P.S. Case No. 51 of 2016 on 22.04.2016. After completion of investigation, charge-sheet was submitted before the learned Trial Court on 31.07.2016.

4. On the basis of the F.I.R., charge-sheet and the materials available on records, the learned Trial Court, found



prima facie case and accordingly, took cognizance of offences punishable under Section 498A read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act against the petitioners and the other accused persons. Aggrieved thereby, the petitioners herein have preferred the present Criminal Miscellaneous Application seeking quashing of the impugned order as well as the entire criminal proceeding arising therefrom.

5. Learned counsel for the petitioners submits that the petitioners are innocent and have been falsely implicated in the present case merely on account of their relationship with the husband of O.P. No.2. Learned counsel of petitioners further submits that the allegations made in the F.I.R. are absolutely vague, general and omnibus in nature and no specific overt act has been attributed against petitioners herein. Learned counsel further submits that petitioner nos. 1 and 2 are the father-in-law and mother-in-law of the informant, respectively, petitioner no. 3 is unmarried *nanad*, petitioner no. 4 is *dewar* and petitioner nos. 5 and 6 are *gotia* i.e., brothers of petitioner no.1, having no concern whatsoever with the matrimonial life of the informant and her husband. He further submits that except making bald allegations that the in-laws demanded dowry and subjected O.P. No.2 to cruelty, no specific date, time, place or manner of



occurrence has been disclosed in the entire prosecution case.

6. Learned counsel further submits that the learned Trial Court, without applying judicial mind to the materials available on record, mechanically took cognizance against the petitioners despite absence of any specific allegation constituting the ingredients of offences under Section 498A read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act. He further submits that continuation of the criminal proceeding against the petitioners would amount to abuse of the process of the Court and the entire criminal prosecution has been maliciously instituted only to harass the petitioners. It is thus submitted that the entire criminal proceeding against the petitioners is fit to be quashed.

7. Learned counsel appearing on behalf of O.P. No. 2 opposes the present application and submits that the allegations made in the F.I.R. as well as the materials collected during investigation clearly disclose commission of cognizable offences under Section 498A read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act against the petitioners and the learned Trial Court has rightly taken cognizance of the alleged offences. Learned counsel for the O.P. No.2, thus, submitted that the learned Trial Court has rightly taken cognizance against the petitioners warranting no



interference by this Court in the impugned order and the present application being devoid of merit is fit to be dismissed.

8. Learned A.P.P. for the State submits that petitioners herein are in-laws of O.P. No.2 and at this stage, meticulous examination of evidence is not permissible and this Court may pass appropriate order in the interest of justice.

9. Having heard learned counsel for the parties as well as learned A.P.P. for the State and upon perusal of the materials available on record, it appears that the present case arises out of Raushanganj (Banke Bazar) P.S. Case No. 51 of 2016 instituted on the basis of Complaint Case No. 123 of 2016 filed by O.P. No.2 alleging demand of additional dowry and subjecting her to physical and mental cruelty by her husband and petitioners herein. The allegations, as made in the complaint petition and the F.I.R., are that after solemnization of marriage, the accused persons expressed dissatisfaction with the articles given in marriage and demanded a further sum of Rs. 3,00,000/- as dowry and upon failure to fulfill the said demand, O.P. No.2 was allegedly subjected to torture and was ultimately driven out from her matrimonial home after snatching her ornaments.

10. At this juncture, it would be apposite to reproduce the relevant paragraphs from the judgment of the Hon'ble Supreme Court in *Abhishek v. State of Madhya Pradesh*,



reported in **(2023) 16 SCC 666**, explaining the scope and contours of the power of quashing criminal proceedings under Section 482 of the Cr.P.C. in matrimonial offenses. 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-A IPC. 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-A IPC 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. In the present case, this Court finds that the allegations levelled against the present petitioners are general and omnibus in nature. The prosecution case mainly discloses that after marriage, dissatisfaction was expressed regarding the articles given in marriage and an additional demand of Rs. 3,00,000/- was allegedly made, followed by alleged physical and



mental harassment of the informant. However, except making sweeping allegations against all the in-laws, no specific overt act has been attributed to the present petitioners individually nor has any distinct role been assigned to them in the alleged occurrence.

12. It is well settled that in matrimonial disputes, relatives of the husband cannot be compelled to face criminal prosecution merely on the basis of bald, vague and omnibus allegations without there being any specific material disclosing their active involvement in the alleged offence. The Hon'ble Supreme Court has consistently observed that there is an increasing tendency to implicate all family members of the husband in matrimonial litigations and that such criminal proceedings deserve interference where no specific allegations are made against the accused persons. It is further well settled, in view of the law laid down by Hon'ble Apex Court in ***State of Haryana and Ors. v. Bhajan Lal and Ors.***, reported in ***1992 Supp (1) SCC 335*** that where the allegations made in the F.I.R., even if taken at their face value, do not disclose commission of any offence or where the criminal proceeding appears to be manifestly attended with *mala fide* and maliciously instituted, the same is liable to be quashed in exercise of inherent jurisdiction. In the facts of the present case, this Court finds that the allegations made against the petitioners are vague and



general in nature and continuation of the criminal proceeding against them would amount to abuse of the process of the Court.

13. Accordingly, the impugned order dated 24.08.2016 passed by the learned S.D.J.M., Sherghati (Gaya) in connection with G.R. No. 640 of 2016 arising out of Raushanganj (Banke Bazar) P.S. Case No. 51 of 2016, *qua* the present petitioners, is hereby set aside. Resultantly, the entire criminal proceeding arising out of the aforesaid case, against the petitioners herein, stands quashed.

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

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

(Sunil Dutta Mishra, J)

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