

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32582 of 2023

Arising Out of PS. Case No.-42 Year-2019 Thana- MAHILA P.S. District- Bhagalpur

RAKESH SINGH Son of Ram Suresh Singh Resident of village - Vibhuti Khand, P.S. - Vibhuti Khand, Lucknow, Distt. - Lucknow, Uttar Pradesh

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Priyanka Singh D/o of Shri Vijay Prasad Singh Temporarily residing at C/o Shrawan Kumar, Manik Sarkar Ghat, Adampur, P.S. - Adampur, distt. - Bhagalpur and permanent resident of village and post office - Parbatta, Distt. - Khagaria

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 15681 of 2023

Arising Out of PS. Case No.-42 Year-2019 Thana- MAHILA P.S. District- Bhagalpur

1. SHANTI SINGH Wife of Ram Suresh Singh R/o Near Morning Glory School, Mahamanapuri Colony, Post Office- BHU PS- Lanka, Dist- Varanasi, Uttar Pradesh
2. Vandana Chaudhary @ Vandana @ Vandana Singh Wife of Rakesh Singh R/o Vibhuti Khand, P.S- Vibhuti Khand, Lucknow, Dist- Lucknow, Uttar pradesh
3. Maya Singh Wife of Vinay Singh R/o Salk Lake, P.S- Bidhan Nagar, Kolkata, Dist- Kolkata, West Bengal
4. Ram Suresh Singh Son of Late Ram Poojan Singh R/o Near Morning Glory School, Mahamanapuri Colony, Post Office- BHU, PS- Lanka, Dist- Varanasi Uttar Pradesh
5. Vinay Singh Son of Ram Suresh Singh R/o Salt Lake, PS- Bidhan Nagar, Kolkata, Dist- Kolkata, West Bengal

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Priyanka Singh D/o Sri Vijay Prasad Singh Temporarily residing at C/o Shrawan Kumar, Manik Sarkar Ghat, Adampur, P.S- Adampur Dist- Bhagalpur and permanent R/V and Post office- Parbatta, Dist- Khagaria

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 32582 of 2023)

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.



Mr. Pravashankar Mishra, Adv.

For the Opposite Party/s : Mr.Narsingh Tanti
(In CRIMINAL MISCELLANEOUS No. 15681 of 2023)
For the Petitioner/s : Mr. Sanjeev Kumar, Adv.
Mr. Pravashankar Mishra, Adv.
For the Opposite Party/s : Mr.Pawan Kumar Chaurasia, APP
For the informant : Mr. Dhananjay Kumar Pandey, Adv.

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL ORDER

3 30-03-2026 Heard learned counsels for the petitioners and learned
APP for the State as also learned counsel for the informant/O.P.
No. 2.

2. Both these applications have been filed for quashing the order dated 23-06-2021 passed by learned Sub Divisional Judicial Magistrate, Bhagalpur in Mahila P.S. Case No. 42 of 2019, G.R. No. 4266 of 2019 whereby and whereunder, the learned Magistrate has taken cognizance against the petitioners for the offence punishable under Sections-498(A)/341/323/504/354(B)/34 of the Indian Penal Code and $\frac{3}{4}$ of Dowry Prohibition Act.

3. The prosecution story in brief is that opposite party no.2 was married to Alok Kumar Singh on 07.03.2011 as per Hindu rites. A few days after marriage, her husband and in-laws started abusing and torturing her. The opposite party no.2 tolerated all these to save her marriage. In the meantime, her husband was transferred to Varanasi where she was put to insult. Her husband spent more time with her Bhabhi as if, she is his



wife. Her Bhaisur namely Rakesh Singh made advances by way of obscene comment and touch and used to threaten her to which the opposite party No. 2 tolerated. At times, she was subjected to humiliation and abjectness. Her husband shifted her to different house but the cruel behaviour of her husband remained the same. She was abused and meted out with violence by her husband.

4. The further story of the prosecution is that she was called by Mahila Thana at Varanasi on the basis of complaint of her husband. She was persuaded but his behaviour remained the same. Her Bhaisur Rakesh Singh asked her to give Rs.15 lakh as dowry and when her family members tried to convince, then her Bhaisur again demanded dowry threatening that if the demand of dowry is not fulfilled, her husband will marry to someone else. Her mother requested for conciliation and sought time for sale of land in order to pay the dowry. Another allegation was that on 20.06.2019, her husband has beaten her, for which she called her family members to take her to Bhagalpur. When she came to Bhagalpur then, she consulted the doctor. In order to save her marriage, she did not pursue the matter further but when her Bhaisur pressurized through local people then she came to know about divorce paper though she did not receive



the same.

5. It has been submitted on behalf of the petitioners that in Cr. Misc. No. 15681 of 2023, the petitioner No. 1 is mother-in-law, petitioner Nos. 2 & 3 are sisters-in-law, the petitioner No. 4 is father-in-law whereas the petitioner No. 5 is brother-in-law of the informant/opposite party No. 2.

6. Learned counsel for the petitioners has relied upon a decision of Kahkashan Kausar @ Sonam vs the State of Bihar (2022), in which the Hon'ble Supreme Court observed as follows:--

"21. Here it must be borne in mind that although the two FIRs may constitute two independent instances, based on separate transactions, the present complaint fails to establish specific allegations against the in-laws of the Respondent wife. Allowing prosecution in the absence of clear allegations against the in-laws Appellants would simply result in an abuse of the process of law.

22. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the accused appellants, it would be unjust if the Appellants are forced to go through the tribulations of a trial, i.e., general and omnibus allegations cannot manifest in a situation where



the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must therefore be discouraged."

7. One another judgment has been relied upon i.e. Geeta Mehrotra & Anr. v/s State of U.P (2012), in which, the Hon'ble Supreme Court categorically observed:-"Mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of the experience that there is a tendency to involve the entire family members of the husband in the domestic quarrel taking place in a matrimonial dispute especially if it happens soon after the wedding.""But as the contents of the FIR does not disclose specific allegation against the brother and sister of the complainant's husband except casual reference of their names, it would not be just to direct them to go through protracted procedure by remanding for consideration of the matter all over again by the High Court and make the unmarried sister of the main accused and his elder brother to suffer the ordeal of a criminal case pending against



them specially when the FIR does not disclose ingredients of offence under Sections 498A/323/504/506, IPC and Sections 3/4 of the Dowry Prohibition Act."

8. Learned counsel for the petitioners has also relied upon the judgment of *Abhishek vs. State of Madhya Pradesh reported in [2023 SCC Online SC 1083]*. He has referred paragraph Nos. 13, 14 and 15 of the said judgment which are as follows:

“(13) 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 alias Sonam v. State of Bihar [(2022) 6 SCC 599], this Court had occasion to deal with a similar situation where the High Court had refused to quash a FIR registered for various offences, including Section 498A 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 498A 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.

14. In Preeti Gupta v. State of Jharkhand [(2010) 7 SCC 667], this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. It was observed that the Courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, as allegations of



harassment by husband's close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection.

15. Earlier, in Neelu Chopra v. Bharti [(2009) 10 SCC 184), this Court observed that the mere mention of statutory provisions and the language thereof, for lodging a complaint, is not the 'be all and end all of the matter, as what is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in the commission of that offence. These observations were made in the context of a matrimonial dispute involving Section 498A IPC.

16. Of more recent origin is the decision of this Court in Mahmood Ali v. State of U.P. (Criminal Appeal No. 2341 of 2023, decided on 08.08.2023) on the legal principles applicable apropos Section 482 Cr.P.C. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 Cr. P.C. 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”.

9. Learned counsel for the informant has opposed the submissions of learned counsel for the petitioners saying that there are series of allegations against them and the prima facie case against them exists.

10. Reading of the F.I.R. would show that major allegation is against the husband and the other persons have



been roped in the present case just to implicate the entire family members. The Hon'ble Supreme Court on a number of occasions has deprecated the general allegations and has quashed the cases. There seems to be absolutely no objective material to support the assertions.

11. Having taken into considerations the submissions advanced on behalf of the parties, I am of the view that this is a fit case in which interference can be made.

12. Accordingly, both these applications are allowed and the order dated 23-06-2021 passed by learned Sub Divisional Judicial Magistrate, Bhagalpur in Mahila P.S. Case No. 42 of 2019, G.R. No. 4266 of 2019 whereby and whereunder, the learned Magistrate has taken cognizance against the petitioners for the offence punishable under Sections-498(A)/341/323/504/354(B)/34 of the Indian Penal Code and $\frac{3}{4}$ of Dowry Prohibition Act is *quashed* with respect to the petitioners only.

(Ansul, J)

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