

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1988 of 2018

Arising Out of PS. Case No.-213 Year-2016 Thana- DIGHA District- Patna

=====

Puja Kumari, Daughter of Ashok Prasad and Wife of Om Prakash Kumar,
Presently residing at Village- Hirdanbigha, P.S. Telmar, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Prachi Priyam, Daughter of Sri Sunil Kumar Singh Resident of Pirmuhani
Gali No. 2 Kadamkuan, P.S. Kadamkuan, Distt. Patna.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Indu Bhushan, Advocate

For the Opposite Party/s : Mr. Abhay Kumar – 1, APP

=====

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

10 21-04-2026 Heard learned counsel for the petitioner as well as
learned APP for the State.

2. The present application has been under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as ‘Cr.P.C.’) for quashing the order dated 28.06.2017 passed by the learned S.D.J.M., Patna (hereinafter referred to as ‘Trial Court’) in connection with Digha P.S. Case No.213 of 2016 wherein the learned Trial Court took cognizance of the offence under Sections 498A, 323, 494 read with Section 34 of the Indian Penal Code, 1860 and under Sections 3 and 4 of the Dowry Prohibition Act, 1961 against the accused persons including the present petitioner.



3. The brief facts of the case, as emerge from the record, are that an F.I.R. bearing Digha P.S. Case No.213 of 2016 was instituted on the basis of a written report submitted by the informant (O.P. No.2), Prachi Priyam, alleging commission of offences under Sections 498A, 323, 494/34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act against her husband and his family members. The marriage of the informant(O.P. No.2) was solemnized with Rajiv Kumar Nirala *alias* Guddu as love marriage through court on 18.08.2004 and through social rites and rituals on 15.07.2005. She was blessed with a daughter on 20.02.2006. The informant (O.P. No.2) alleged that after her marriage with the accused husband, she was subjected to cruelty, physical assault, and persistent demand of dowry, including pressure to bring money from her parental home, and was also threatened with the husband's second marriage. It was further alleged that the husband had developed relations with many woman, but suspecting the informant, husband filed a divorce case which is pending in concerned court. She came to know that he had secretly solemnized a second marriage on 10th July, 2016 with the petitioner in a temple. On the basis of the said allegations, investigation was conducted and charge-sheet was submitted.



4. Upon perusal of the materials available on record as well as the charge-sheet submitted by the Investigating Officer, the learned Trial Court found *prima facie* case for the offences under Sections 498A, 323, 494 read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act and accordingly took cognizance of the said offences *vide* the impugned order dated 28.06.2017 against all the accused persons including the present petitioner. Aggrieved by the said order of cognizance, the petitioner has preferred the present Criminal Miscellaneous Application for quashing of the same.

5. Upon perusal of the records, it further appears that the husband of O.P. No.2 has already died during the period of COVID-19 pandemic, which is a relevant subsequent development having bearing on the continuance of the present criminal proceeding.

6. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and is not named in the F.I.R. Learned counsel further submits that the implication of the petitioner has been made during investigation in a mechanical manner without there being any cogent or reliable material to substantiate the allegation of her alleged



marriage with the husband of O.P. No.2. It is submitted that the entire prosecution case, even if taken at its face value, does not disclose any specific overt act against the petitioner attracting the ingredients of the offences alleged.

7. Learned counsel for the petitioner further submits that the petitioner is legally married to one Om Prakash Kumar and their marriage was duly solemnized in the year 2015 in accordance with Hindu rites and customs and subsequently registered before the competent authority, pursuant to which a marriage certificate dated 19.06.2017 has been issued. Learned counsel submits that the allegation of bigamy under Section 494 of the Indian Penal Code is wholly misconceived and baseless. He further submits that there is no allegation of demand of dowry or cruelty against the petitioner so as to attract the provisions of Sections 498A of the Indian Penal Code or Sections 3 and 4 of the Dowry Prohibition Act, and the order taking cognizance has been passed without proper application of judicial mind, rendering the same liable to be quashed.

8. Learned A.P.P. for the State fairly submits that there appears to be no specific allegation of demand of dowry or cruelty against the petitioner and the same is also not supported by any cogent material collected during investigation.



9. Despite valid service of notice, O.P. No.2 has not appeared to contest the present application. Accordingly, this Court proceeds to consider and decide the matter on the basis of the materials available on record and the submissions advanced on behalf of the petitioner and the State.

10. Having heard the learned counsel for the petitioner and learned APP for the State, this Court deems it appropriate to first delineate the scope and ambit of jurisdiction under Section 482 of the Cr.P.C. It is well settled that the inherent power of the High Court is to be exercised sparingly, with circumspection, and only to prevent abuse of the process of the Court or to secure the ends of justice. While exercising such jurisdiction, the Court is not required to conduct a roving inquiry into the truthfulness of the allegations but is to examine whether the uncontroverted allegations and the materials on record *prima facie* disclose the commission of any offence. If the allegations, even if taken at their face value, do not constitute any offence or where the prosecution appears to be manifestly attended with *mala fide* or instituted with an ulterior motive, the High Court would be justified in quashing the proceedings.

11. Upon consideration of the entire materials



available on record, it transpires that the petitioner was admittedly not named in the F.I.R. and has been implicated only during the course of investigation without any substantive material indicating her involvement in the alleged offences. The record does not disclose any specific overt act of cruelty, assault, or demand of dowry attributable to the petitioner so as to attract the ingredients of Sections 498A and 323 of the Indian Penal Code or Sections 3 and 4 of the Dowry Prohibition Act. The allegation of bigamy against the petitioner also appears to be wholly unsubstantiated, inasmuch as no material has been collected by the Investigating Officer to establish that the petitioner had solemnized marriage with the husband of O.P. No.2, and on the contrary, the marriage certificate brought on record *prima facie* indicates that the petitioner is legally married to another person. In such circumstances, the implication of the petitioner appears to be casual and without any legal basis, and the continuation of the criminal proceeding against her would amount to abuse of the process of the Court.

12. It is pertinent to note that the law with respect to quashing of criminal proceeding is now well settled that while considering a prayer to quash the criminal complaint and the consequential proceedings at the threshold, the Court is required



to examine whether the allegations made in the complaint along with materials in support thereof make out a *prima facie* case to proceed against the accused or not. The reference to the same has been made by the Hon'ble Apex Court in plethora of judgments including ***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***.

13. In view of the discussions made hereinabove and considering the facts and circumstances of the case, this Court is of the opinion that the impugned order taking cognizance dated 28.06.2017 passed by the learned Trial Court so far as it relates to the present petitioner, cannot be sustained in the eye of law.

14. Accordingly, the impugned order dated 28.06.2017 passed by the learned S.D.J.M., Patna in connection with Digha P.S. Case No.213 of 2016 as well as the entire criminal proceeding arising therefrom, is hereby quashed *qua* the petitioner is concerned.

15. Resultantly, the present Criminal Miscellaneous Application stands allowed. As a consequence, all further proceedings arising out of Digha P.S. Case No. 213 of 2016, pending in the Court of learned S.D.J.M., Patna, so far as it



relates to the present petitioner, shall remain quashed.

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

17. Let a copy of this order be communicated to the Court concerned forthwith for information and necessary compliance.

(Sunil Dutta Mishra, J)

utkarsh/-

U		T	
---	--	---	--

