IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11592 of 2017

CNR No. BRHC010512832017

Arising Out of PS. Case No.-1 Year-2016 Thana- MAHILA P.S. District- Saharsa

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1. Vaibhav Poddar @ Baibhai Poddar @ Vaibhav S/o Late Jagannath Poddar,
2. Manju Poddar, W/o Late Jagannath Poddar, Both R/o C- 49, Pocket-6, Central Vihar- II, Sector- 82, Noida, P.S.and District- Gautam Budh Nagar, Uttar Pradesh West.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. Niharika Poddar, W/o Vaibhav Poddar, & D/o Srikant Poddar, R/o Colony and P.S.- Simri Bakhtiyarpur, District- Saharsa, Bihar.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Vaibhav Narayan, Advocate
Mr. Sumit Kumar, Advocate
For the State : Mr. Iftekhar Mahmood, APP

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CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR
ORAL JUDGMENT
Date : 29-10-2026

Heard learned counsel for the petitioners and learned counsel for the State. Even after valid service of notice, there is no representation on behalf of opposite party no. 2.

2. The petitioners have filed this application for the quashing of the order dated 05.08.2016, passed by the learned Judicial Magistrate 1st Class, Saharsa, in Mahila P.S. Case No. 01 of 2016, whereby cognizance was taken against the petitioners for the offences punishable under Sections 498(A), 323, 34 of the IPC.

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3. The prosecution story, in brief, is that the informant alleged that her husband and her in-laws took her jewellery and Rs. 28,000/-, assaulted and harassed her for dowry, confined her and accused her of witchcraft. She further alleged that after disputes over these matters, she was asked to leave her matrimonial home.

4. Learned counsel for the petitioners has submitted that the petitioners have been falsely implicated in this case and they happen to be the husband and the mother-in-law respectively of the informant. Learned counsel for the petitioners has submitted that as per the averments made in the written statement, none of the occurrence allegedly took place within the territorial jurisdiction of Saharsa district and the entire alleged occurrence took place at Delhi.

4.1. It has further been submitted that it is not the case of the informant that she was ousted from her matrimonial home, rather, in the FIR itself, she has stated that she took a train on her own sweet will from Delhi to reach her native place.

4.2. Learned counsel for the petitioners has further submitted, referring to the provision of Section 177 of the Code of Criminal Procedure, that every offence should ordinarily be inquired into and tried by the Court within whose local

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jurisdiction it was committed.

4.3. Learned counsel has further submitted, referring to provision of Section 178 Cr.P.C., which deals with the place of inquiry or trial, that the offence is not a continuing one as provided under Section 178(c) and did not continue to be committed in more local areas than one and, further referring to provision under Section 178(d), it has specifically been submitted that in the present case there were no several acts done in different local areas. Moreover, referring to provision of Section 179 of the Cr.P.C., it has been submitted that consequences did not fall in the Saharsa district and no act was committed within the territorial jurisdiction of Saharsa district. It has, thus, been submitted that lodging of the case at Saharsa and not at Delhi shows the malicious intent of the accused.

4.4. Learned counsel for the petitioner has further submitted that the informant has herself filed a petition for divorce before the Court below and divorce was granted on contest by the petitioner no.1 being the husband. The petitioner No. 1 even challenged the said order of grant of divorce in Miscellaneous Appeal No. 25 of 2022 and, by judgment dated 04.01.2023, the appeal filed against the said judgment came to be dismissed.

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4.5. It has further been submitted that petitioner no. 1 always tried to reconcile the issue and even the divorce granted in favour of the informant-wife was contested by petitioner no. 1. Moreover, an application under Section 9 of the Hindu Marriage Act was also filed by petitioner no. 1, in which an order was passed against the informant.

4.6. Learned counsel for the petitioners has further submitted, relying upon the judgment of the Hon'ble Supreme Court in the case of ***State of Haryana vs. Bhajan Lal reported in 1992 Supp (1) SCC 335***, that the case of the petitioners falls under various categories as discussed in Paragraph 102 of the said judgment.

4.7. Learned counsel for the petitioners has further placed reliance upon the judgment of the Hon'ble Supreme Court, in the case of ***Nitin Ahluwalia vs. State of Punjab as reported in 2025 INSC* 1128**, and has submitted that in a case where adverse decrees against the informant in other proceedings pending between the parties has led to lodging of the FIR as a retaliatory measure, the timing and surrounding context are decisive markers of malafide intent and such retaliatory FIR constitutes abuse of process of law and the present case is covered by the aforesaid judgment of the

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Hon'ble Supreme Court.

5. Learned counsel for the State opposed the prayer of the petitioner.

6. Heard the parties and perused the record.

7. Considering the facts and circumstances and the issue of territorial jurisdiction as well as the present FIR being retaliatory counter blast by the informant and also in view of the judgments, as discussed above, the present prosecution against the petitioners would amount to be an abuse of the process of the law and the court.

8. Accordingly, the order taking cognizance dated 05.08.2016, passed by the learned Judicial Magistrate 1st Class, Saharsa, in Mahila P.S. Case No. 01 of 2016, is hereby quashed.

9. The application accordingly stands allowed.

(Praveen Kumar, J)

Rupa/-

AFR/NAFR	NAFR
CAV DATE	NA
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