IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13977 of 2018

CNR No. BRHC010624802018

Arising Out of PS. Case No.-21 Year-2016 Thana- MALI District- Aurangabad

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1. Alok Ranjan and Ors son of Awadhesh Singh
2. Awadhesh Singh, son of Late Ram Ratan Singh
3. Pradeep Singh, son of Late Ram Ratan Singh
4. Manorma Devi, W/o Awadhesh Singh, All are Resident of Village- Kolh Manjhauli, P.S. Mali, District- Aurangabad.
5. Sheela Devi, W/o Ajeet Singh, resident of Village- Karahara, P.S.- Aurangabad M, District- Aurangabad Bihar.

... ... Petitioner/s

Versus

1. State Of Bihar and Anr
2. Bindu Devi @ Nitu Devi, W/o Amish Kumar Singh, D/o Ramchandra Singh, R/o Kolh Manjhauli, P.S.- Mali, District- Aurangabad Bihar, at present- Karahara, P.S.- Aurangabad Bihar.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Birendra Kumar Singh, Advocate
For the Opposite Party/s : Mr.Sharda Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE ANSUL

ORAL JUDGMENT

Date : 27-10-2026

Heard Mr. Birendra Kumar Singh, learned counsel for the petitioners and Mr. Dinesh Singh, learned APP for the State. None appears for the Opposite Party No. 2. Notice upon her was taken as validly served by order dated 22.08.2019. On 31.08.2026 the matter was adjourned for four weeks only to enable her to appear and assist the Court, failing which the Court was to proceed

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in her absence. She has not appeared even thereafter and the matter is being decided on the record.

2. The petitioners have prayed for quashing of the order dated 11.04.2017 passed by the learned Additional Chief Judicial Magistrate V, Aurangabad in connection with Mali P.S. Case No. 21 of 2016 (G.R. No. 4516 of 2016, Trial No. 1906 of 2017), whereby cognizance has been taken against them and the husband of the Opposite Party No. 2 under sections 498A, 34 IPC and 3/4 Dowry Prohibition Act, 1961. The charge sheet is under Section 498A read with Section 34 IPC only, but cognizance has been taken under Section 498A read with Section 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act. The case is now pending in the court of the learned Sub Divisional Judicial Magistrate, Aurangabad. By order dated 06.11.2018 interim protection was granted to the petitioners and it has continued since.

3. The Opposite Party No. 2 is the informant. Petitioner No. 1 Alok Ranjan is her devar, the younger brother of her husband. Petitioner Nos. 2 and 4, Awadhesh Singh and Manorma Devi, are her father-in-law and mother-in-law. Petitioner No. 3 Pradeep Singh is described in the FIR as her chachera sasur; in the cause title he is shown, like petitioner No. 2, as a son of late Ram Ratan Singh. Petitioner No. 5 Sheela Devi is the married sister of

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the husband and lives with her own husband at village Karahara, which happens to be the village of the informant's parents as well. The husband, Amish Kumar Singh, is the sixth accused. He has not come to this Court.

4. The FIR was registered on 07.05.2016 on the written application of the informant given at Mali Police Station. She stated that she was married to Amish Kumar Singh on 12.01.2012 in a court at Bhagalpur. The petition describes the marriage as of 12.01.2016, which is a mistake, as both the FIR and the case diary give the year 2012. According to her, for some days after the marriage her husband and his family kept her well. Thereafter the husband, the father-in-law, the *devar*, the *chachera sasur*, the mother-in-law and the *nanad* Sheela Devi of village Karahara began to compel her to bring Rs. 4,00,000 and a Bullet motorcycle from her parents as dowry. When she told them that her parents were poor and could not give dowry, all of them started assaulting and abusing her and harassing her for dowry. Whenever her parents came to meet her at the *sasural*, they too were abused and threatened with assault and were told that they would not be allowed to meet their daughter till the money and the motorcycle were given. Fed up with this she came to the police station. In the FIR the occurrence is shown as from after 12.01.2012, with no day

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and no time. Against the column for the reason of delay, the only entry is that the application was received late.

5. A carbon copy of the case diary was called for and has been received from the court below. It is handwritten and faint at places but can be followed. In paragraph 3 the informant has restated what is in the FIR. Paragraphs 7, 8 and 9 contain the statements of witnesses. They say what the FIR says, naming the same six persons together and giving the same figure of Rs. 4,00,000/- and the same Bullet motorcycle. On 28.05.2016 all six accused appeared before the court below and were released on bail, as the case diary itself records. After the supervision, the Investigating Officer submitted charge sheet No. 36 of 2016 dated 29.06.2016 against all six under Section 498A read with Section 34 IPC. The FIR does not speak of any injury on any date and no injury report or treatment paper is on the record.

6. By the impugned order the learned Magistrate noticed that the charge sheet was only under Section 498A read with Section 34 IPC while the FIR was also under Sections 3 and 4 of the Dowry Prohibition Act, for which, in his words, there was ample material in paragraphs 7, 8 and 9 of the case diary. On that footing he found a *prima facie* case under all the sections against the six FIR named accused and issued summons.

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7. Learned counsel for the petitioners has submitted that the entire family of the husband has been made accused only because of the relationship. The allegation is the same for every one of them and no role is given to any petitioner separately. The marriage was a court marriage at Bhagalpur performed at the informant's own will, with none of the family present. Petitioner No. 5 is a married woman living in her own matrimonial home. It is submitted that the learned Magistrate passed the order mechanically, without any scrutiny as to what each of the in-laws other than the husband is said to have done.

8. The learned APP has opposed the prayer. He has submitted that the case was investigated, the witnesses have supported the FIR and the charge sheet has been submitted. The demand is specific as to the amount and the article and whether it was made is a matter for the trial.

9. The question is whether the FIR and the case diary, taken as they stand, make out a case against these five petitioners.

10. The figure of Rs. 4,00,000 and the Bullet motorcycle tells about the demand but does not specify which of the six asked for it or on what occasion. The marriage was in January 2012 and the FIR came in May 2016. The demand, the assault, the abuse and the threat to the parents are all put in the mouths of six persons at

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once, from the husband down to the married *nanad* at Karahara. The witnesses of paragraphs 7, 8 and 9 do not carry the matter any further. They repeat the FIR in the same order and they do not give an occasion either.

11. Section 498A IPC punishes cruelty by the husband or a relative of the husband and the case here is under clause (b) of the Explanation, that is, harassment of the woman with a view to coercing her or her relatives to meet an unlawful demand for property or valuable security. The harassment has to be by the person who is to be tried. A demand recited against the whole family in one sentence does not show what any one of them did. The Hon'ble Supreme Court in ***Sanjay D. Jain and Others v. State of Maharashtra and Others*** reported in ***2025 SCC OnLine SC 2090***, dealing with a complaint against the in-laws, has held as follows:-

> *"10. A perusal of the FIR and its consideration in entirety indicates that statements of a general nature have been made therein as against the present appellants. The complainant states that on 07.08.2021 when she had gone to her parental house, she had received a call from her mother-in-law raising a demand for clothes and jewellery. When she returned to her matrimonial house on 30.08.2021, she had taken few clothes for the family members. Except this statement, all other statements*

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> *are of a general nature as well as vague without any particulars. There are other omnibus statements made in the complaint without any particulars whatsoever. It is also to be noted that for the purpose of constituting an offence punishable under Section 498-A of the Penal Code, cruelty as indicated in the Explanation to the said provision must be stated to be inflicted. The cruelty caused by the husband and his family members should be of such nature that it is inflicted with the intention to cause grave injury or drive the victim to commit suicide or inflict grave injury to herself. Such allegations are absent in the present case. We do not find that on a complete reading of the complaint, a prima facie case for proceeding under Section 498-A of the Penal Code has been made out against the appellants."*

12. There the complainant had at least given a date and named the mother-in-law as the person who made a demand on the telephone and still the Hon'ble Apex Court did not find a *prima facie* case against the in-laws. In the present FIR no petitioner is named as having said or done anything on any day.

13. The case of ***Kahkashan Kausar alias Sonam and Others vs. State of Bihar and Others*** reported in ***(2022) 6 SCC 599*** went to the Hon'ble Supreme Court from an order of this Court. The FIR there also spoke of a demand of dowry and named the relatives of the husband. The Hon'ble Supreme Court noticed

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its earlier decisions on the subject, including ***K. Subba Rao vs. State of Telangana***, where it was said that the relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement are made out. It then held as follows:

> *"17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.*
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> *18. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that 'all accused harassed her mentally and threatened her of terminating her pregnancy'. Furthermore, no specific and distinct allegations have been made against either of the appellants herein i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and omnibus and*

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> *can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution."*

14. The position of petitioner No. 5 is the plainest. She is married and lives in her own matrimonial home at Karahara. The FIR does not say that she ever stayed at the house in Kolh Manjhauli or came there at any point of time, much less what she said there. Petitioner No. 3, the uncle of the husband, stands in the same position. Except his place in the list of names, nothing is said about him.

15. The father-in-law, the mother-in-law and the *devar* are differently placed, in that they lived in the house at Kolh Manjhauli where the informant lived after her marriage. This requires to be noticed. Living in the same house may explain why a person is named. It does not by itself make that person answerable for what the FIR says the whole family did. Nothing is said about any of the three beyond the general sentence. On perusal of the materials on record, this Court does not find a single act attributed to any of them separately.

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16. As to the Dowry Prohibition Act, Section 3 punishes the giving or taking, or the abetment of giving or taking, of dowry. Section 4 punishes the demanding of dowry, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom. Nobody says that anything was given or taken. The marriage was in a court and the FIR does not say that any dowry was settled or paid at the time. So far as Section 3 is concerned there is nothing at all. Section 4 rests on the same general demand which has already been dealt with. The learned Magistrate found ample material in paragraphs 7, 8 and 9 of the case diary, but those paragraphs are the FIR said again by the witnesses. They name all six together and they too do not give the occasion of any demand.

17. There is one more aspect. In ***Salib alias Shalu alias Salim vs. State of U.P. and Others*** reported in ***2023 INSC 687***, the Hon'ble Supreme Court has held as follows in paragraph 26:-

> *"26. ... Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or 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 for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. ... In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending*

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> *circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation…"*

18. Read in that manner, the record shows a marriage in a court at Bhagalpur in January 2012, away from both villages. For more than four years after that there is no complaint by the informant to anyone that is on the record, whether to the police or in a panchayati or to any relative in writing. Then in May 2016 an FIR is lodged naming every member of the husband's family, including his married sister who lives in the informant's own parental village and his uncle. The delay is explained in one line, that the application was received late. Delay alone does not defeat a complaint of this nature, as a married woman may suffer for long in silence before she goes to the police. But when the complaint that finally comes gives no instance against anybody and names everybody, the long silence is a circumstance which the Court can take into account along with the rest.

19. The Hon'ble Supreme Court in ***State of Haryana and Others vs. Bhajan Lal and Others*** reported in ***1992 Supp (1)***

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SCC 335 has laid down, by way of illustration, the categories of cases in which the power under Section 482 Cr.P.C may be exercised. In paragraph 102 of the said judgment it has been held as follows, so far as relevant:-

> *"102. ... (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
>
> *...*
>
> *(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused."*

20. The FIR and the statements collected in the investigation, taken at their face value, do not disclose an offence under Section 498A IPC or under Sections 3 and 4 of the Dowry Prohibition Act against any of the five petitioners. The case so far as they are concerned falls in the first and the third categories. Allowing the prosecution to go on against them would be an abuse of the process of the court.

21. Accordingly, the order dated 11.04.2017 passed by the learned Additional Chief Judicial Magistrate V, Aurangabad in Mali P.S. Case No. 21 of 2016 (G.R. No. 4516 of 2016, Trial No. 1906 of 2017), so far as it relates to the petitioners, is quashed. The

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entire criminal proceeding arising therefrom, so far as it relates to the petitioners, is also quashed.

22. The husband, Amish Kumar Singh, has not approached this Court and the allegations against him have not been examined. The observations made in this order are confined to the petitioners and shall not influence the trial against him, which shall proceed on its own merits.

23. The petition is allowed. The interim protection granted on 06.11.2018 merges in this order.

(Ansul, J)

abhishekkr/-

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CAV DATE	14.10.2026
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