

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32799 of 2018

Arising Out of PS. Case No.-258 Year-2015 Thana- MALSALAMI District- Patna

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1. Ramawati Devi, W/o Late Nand Kishore Giri,
 2. Deepak Giri, S/o Late Nand Kishore Giri, Both R/o Mohalla- Bari Nagla, P.S.- Malsalami, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Radha Giri, W/o Prakash Kumar Giri, R/o Mohalla- Bari Nagla, P.S.- Malsalami, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nachiketa Jha, Advocate

For the Opposite Party/s : Mr. Ram Priya Saran Singh, APP

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

9 24-03-2026 1. Heard learned counsel for the petitioners as well as learned APP for the State.

2. The present application has been filed on behalf of the petitioners for quashing of the order dated 19.08.2016 passed by the learned Sub-Divisional Judicial Magistrate, Patna City (hereinafter referred to as 'Magistrate') arising out of Malsalami P.S. Case No. 258 of 2015 wherein cognizance for offences under Section 498A of the Indian Penal Code, 1860 (hereinafter referred to as 'I.P.C.') and under Sections 3 and 4 of the Dowry Prohibition Act, 1961 has been taken against the petitioners, who are mother-in-law and brother-in-law of the O.P. No.2, and also against Prakash Giri (husband of O.P.No.2).



3. The facts of the case, in brief, is that the informant, namely Radha Giri (O.P. No.2), had solemnized a love marriage with her husband, Prakash Kumar Giri, initially in a temple and subsequently through court marriage, and thereafter went to her matrimonial home where she lived for some time. It is alleged that after a certain period, the accused persons, including the present petitioners, subjected her to cruelty and harassment on account of demand of dowry, specifically a sum of Rs. 7 lakhs and a motorcycle, and ultimately ousted her from the matrimonial home along with her child. On the basis of the said allegations, the aforesaid police case was instituted and, upon investigation, cognizance was taken by the learned Magistrate.

4. On the basis of the said allegations, the learned Magistrate, *vide* impugned order dated 19.08.2016, took cognizance for the offences punishable under Section 498A of the I.P.C., and under Sections 3 and 4 of the Dowry Prohibition Act against the three accused persons, namely, Ramawati Devi (Petitioner No.1), Prakash Giri (husband of O.P. No.2) and Deepak Giri (Petitioner No.2). Subsequently, charges were framed against the three accused persons under Sections 3 and 4 of the Dowry Prohibition Act.

5. Petitioners, being aggrieved by the said order of



cognizance against them, have preferred this application praying to quash the impugned order dated 19.08.2016 passed against them.

6. Learned counsel for the petitioners submits that the impugned order taking cognizance is wholly unsustainable in the eyes of law, inasmuch as the allegations made in the F.I.R. and the materials collected during investigation do not disclose the commission of any offence against the present petitioners. It is submitted that the entire prosecution case is based on vague, general and omnibus allegations of demand of dowry, without attributing any specific act to either of the petitioners and in absence of such specific allegations, the continuation of the criminal proceeding amounts to abuse of the process of the court.

7. Learned counsel further submits that Petitioner No.1, being the mother-in-law of the O.P. No.2, is an aged lady of more than 70 years and is not even in a position to carry out her day-to-day activities, whereas Petitioner No.2 is the elder brother-in-law (*Bhaisur*), who has been roped in only on account of his relationship with the husband of the informant. Learned counsel submits that the O.P. No.2 had admittedly solemnized a love marriage of her own volition and was



residing separately with her husband and children, and therefore, the question of any persistent demand of dowry or cruelty by the petitioners does not arise. Learned counsel submits that implication of the petitioners is thus malicious and motivated, at the instance of the O.P. No.2 parental family.

8. Learned counsel for the petitioners lastly submits that even if the entire allegations made in the F.I.R. are taken at their face value, no *prima facie* case under Section 498A of the Indian Penal Code or Sections 3 and 4 of the Dowry Prohibition Act is made out against the petitioners. He submits that the learned Magistrate has erred in taking cognizance mechanically without proper application of judicial mind, and therefore, this is a fit case for exercise of inherent jurisdiction of this Court to prevent abuse of the process of law and to secure the ends of justice.

9. Per contra, learned A.P.P. appearing for the State has submitted that at the stage of taking cognizance, a meticulous examination of evidence is not required and the Court is only to see whether a *prima facie* case is made out from the materials available on record and the impugned order does not warrant any interference by this Court in exercise of its inherent jurisdiction.



10. Despite valid service of notice upon O.P. No. 2, none has appeared on her behalf to contest the present application. Accordingly, the matter has been heard in absence of Opposite Party No. 2.

11. At this stage, it is well settled that in cases arising out of matrimonial disputes, the Court is under a duty to carefully scrutinize the allegations made in the complaint/F.I.R. so as to ascertain, *prima facie*, whether they disclose any element of truth or are merely intended to implicate the relatives of the husband in a criminal proceeding. Where the allegations are found to be vague, general and omnibus in nature, without any specific attribution of overt acts, the Court must exercise caution and prevent misuse of the criminal process.

12. The Hon'ble Supreme Court, time and again, has also made the stance very clear with respect to the criminal allegations arising out of matrimonial discords. The Hon'ble Apex Court in *Preeti Gupta v. State of Jharkhand*, reported in (2010) 7 SCC 667 has observed as under:

“32. It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in



the number of genuine cases of dowry harassment is also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. 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. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection.”

13. The Hon’ble Supreme Court in ***Geeta Mehrotra and Anr. v. State of Uttar Pradesh and Anr.***, reported in (2012) 10 SCC 741 has observed as under:

“20. Coming to the facts of this case, when the contents of the FIR are perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names which have been included in the FIR but 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 experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

21. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao v. L.H.V. Prasad [G.V. Rao v. L.H.V. Prasad, (2000) 3 SCC 693 : 2000 SCC (Cri) 733] wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed



and set aside. Their Lordships observed therein with which we entirely agree that : (SCC p. 698, para 12)

‘12. There has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different courts.’

The view taken by the Judges in this matter was that the courts would not encourage such disputes.”

14. The Hon’ble Supreme Court in ***Achin Gupta v.***

State of Haryana and Anr., reported in (2025) 3 SCC 756 has

observed as under:

“35. In one of the recent pronouncements of this Court in Mahmood Ali v. State of U.P. [Mahmood Ali v. State of U.P., (2023) 15 SCC 488] , authored by one of us (J.B.



Pardiwala, J.), the legal principle applicable apropos Section 482CrPC was examined. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482CrPC 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.

(emphasis supplied)

15. Upon consideration of the entire materials on record and the submissions advanced on behalf of the parties, this Court finds that the allegations made in the F.I.R. against the present petitioners are general and omnibus in nature. The petitioners, being the mother-in-law and elder brother-in-law of the informant (O.P. No.2), appear to have been implicated only on account of their relationship with the husband of the



informant (O.P. No.2). In absence of specific and *prima facie* material against them, continuation of the criminal proceeding would amount to abuse of the process of the Court.

16. It is well settled that criminal proceedings arising out of matrimonial disputes, particularly under Section 498A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act require careful scrutiny, and the relatives of the husband should not be roped in on the basis of vague and bald allegations. In the present case, even if the allegations are taken at their face value, no *prima facie* case is made out against the petitioners so as to justify their prosecution.

17. Accordingly, this Court is of the considered view that the impugned order dated 19.08.2016 passed by the learned Sub-Divisional Judicial Magistrate, Patna City, in Malsalami P.S. Case No.258 of 2015, so far as it relates to the present petitioners, is not sustainable in the eyes of law and is liable to be set aside.

18. Resultantly, the same is hereby set aside and the entire criminal proceeding stands quashed qua the present petitioners.

19. It is further clarified that the observations made hereinabove are confined to the adjudication of the present



application for quashing and shall not be construed as an expression on the merits of the case against the other accused person and the learned court concerned shall proceed independently and uninfluenced by any observation made in this order, in accordance with law. The application stands allowed to the extent indicated above.

20. Let a copy of this order be communicated to the learned court concerned forthwith.

(Sunil Dutta Mishra, J)

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