

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35253 of 2018**

Arising Out of PS. Case No.-402 Year-2013 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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Vijay Kumar Jha, Son of Late Sitaram Jha, Resident of Village- Chilhai,
Police Station- Teghra, District Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Srimati Amita Devi, Former wife, of Sri Vijay Kumar, resident of Chilhai,
Police Station- Teghra, District Begusarai, Address Daughter of Sri
Prabhunandan Jha, resident of Ghataho, Police Station Ghataho, District
Samastipur. Presently Wife of Sewak Ram @ Chhotu Ram, Son of Premi
Ram, resident of Village- Varanda, Police Station Ujiarpur, District
Samastipur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Maharaj, Advocate
For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

11 26-03-2026 1. Heard learned counsel for the petitioner as well as
learned APP for the State.

2. The present application has been filed under
Section 482 of the Code of Criminal Procedure, 1973 for
quashing the order dated 12.02.2014 passed by learned Sub-
Divisional Judicial Magistrate, Begusarai (hereinafter referred
to as 'Magistrate') in Complaint Case No.402C of 2013 where
in the learned Magistrate took cognizance of the offence under
Sections 498A, 323, 417, 468/34 of the Indian Penal Code, 1860
against the present petitioner and other accused persons.



3. The facts of the case, in brief, as alleged in the complaint instituted by O.P. No.2, Amita Devi, is that her marriage with the petitioner was solemnized in accordance with Hindu rites and rituals and sufficient dowry was given as per capacity of her parental family. It is alleged that she was subjected to cruelty and assault and was earlier driven out of her matrimonial home on 09.01.2010, whereafter she had instituted Complaint Case No. 34 of 2010. Subsequently, a compromise was entered into between the parties on 29.08.2011, pursuant to which she resumed cohabitation at her matrimonial home. However, it is further alleged that she was again subjected to cruelty and a demand of Rs. 5,00,000/- was made by the accused persons, accompanied by threats to her life and that of her family members. It is also alleged that she was coerced into signing certain papers and was compelled to depose in favour of the accused persons before the Family Court. It is further the case of the complainant (O.P. No.2) that despite an order dated 10.10.2012 passed by the learned Family Court, Begusarai, the accused persons continued to harass her and ultimately drove her out of the matrimonial home after reiterating the demand of money. O.P. No.2 has also alleged that the petitioner and his family members, in furtherance of a conspiracy, fraudulently



obtained a decree of divorce by mutual consent by exercising coercion and deceit. On the basis of the said allegations, the Complaint Case No.402C of 2013 came to be instituted.

4. On the basis of the said allegations, the learned Magistrate, after examination of O.P. No.2 on solemn affirmation and inquiry, *vide* impugned order dated 12.02.2014, took cognizance for the offences punishable under Section 498A, 323, 417, 468/34 of the Indian Penal Code against the petitioner herein and the other accused persons. Petitioner, being aggrieved by the said order of cognizance against him, has preferred this application praying to quash the impugned order dated 12.02.2014 passed against him.

5. Learned counsel for the petitioner submits that the entire criminal proceeding is a gross abuse of the process of law and has been maliciously instituted with an ulterior motive to harass the petitioner. He submits that the marriage between the petitioner and O.P. No.2 already stood dissolved by a decree of divorce by mutual consent passed by the learned Principal Judge, Family Court, Begusarai *vide* judgment dated 10.10.2012 and final order dated 01.11.2012. It is further submitted that the Complaint Case No. 402C of 2013 has been filed thereafter on 04.03.2013, clearly indicating that the same is an afterthought



and has been instituted with oblique motives, devoid of any genuine cause of action.

6. Learned counsel for the petitioner further submits that even if the allegations made in the complaint are taken at their face value, no offence under Sections 498A, 323, 417, 465, 468/34 of the Indian Penal Code is *prima facie* made out against the petitioner. Learned counsel submits that the allegations are omnibus, vague and lack specific particulars with respect to time, place and manner of occurrence. It is submitted that once the relationship of husband and wife had already come to an end by virtue of a decree of divorce by mutual consent, the continuation of prosecution under Section 498A of the Indian Penal Code is not legally tenable. He submits that the allegations relating to cheating and forgery are wholly unsustainable in absence of any challenge to the decree passed by the competent Family Court.

7. Learned counsel next submits that the O.P. No.2 has voluntarily entered into the compromise earlier and thereafter sought divorce by mutual consent, which was granted by the competent court after due consideration. It is submitted that she has subsequently remarried and is living her life independently having two children from the present wedlock,



and the present complaint case has been filed only to exert pressure upon the petitioner and to extract money. Learned counsel for the petitioners further submits that the learned Magistrate, without proper application of judicial mind mechanically took cognizance against the petitioner. Learned counsel thus submits that allowing the criminal proceeding to continue would result in grave miscarriage of justice and, therefore, the impugned order taking cognizance is fit to be quashed in the interest of justice.

8. Learned APP appearing for the State conceded that marriage of petitioner with O.P No.2 has already been dissolved long back i.e. on 10.10.2012 by the learned Family Court, Begusarai and Complaint case has been filed later on in year 2013.

9. Despite valid service of notice and sufficient opportunities granted by this Court, none appears on behalf of O.P. No.2 to contest the present application. Accordingly, this Court proceeds to decide the matter in absence of any representation on her behalf.

10. Having heard learned counsel for the petitioner and learned APP for the State, and upon perusal of the materials available on record, this Court proceeds to examine as to



whether the continuation of the criminal proceeding would amount to an abuse of the process of the Court.

11. It is well settled that while exercising jurisdiction under Section 482 of the Code of Criminal Procedure, this Court is required to examine whether the uncontroverted allegations made in the complaint and the materials brought on record disclose the commission of any offence. If the allegations are so absurd and inherently improbable that no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding, or where the proceeding is manifestly attended with *mala fide* and has been instituted with an ulterior motive for wreaking vengeance, the same is liable to be quashed to secure the ends of justice.

12. At this stage, it is apposite to reproduce some relevant paragraphs of the judgment of Hon'ble Supreme Court in the case of *Abhishek v. State of Madhya Pradesh*, reported in **(2023) 16 SCC 666** with respect to the contours of the power to quash criminal proceedings under Section 482 of the Cr.P.C. The Hon'ble Apex Court observed as under:

“16. 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 v. State of Bihar [(2022) 6 SCC 599], this Court had occasion to deal with a similar situation where the High Court had refused [Mohd. Ikram v. State of Bihar, 2019 SCC OnLine Pat 1985] to quash an FIR registered for various offences, including Section 498-AIPC. 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 498-AIPC 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.

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19. Of more recent origin is the decision of this Court in Mahmood Ali v. State of U.P. [(2023) 15 SCC 488] on the legal principles applicable apropos Section 482 CrPC. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 CrPC 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.”

13. 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)

14. Upon a careful scrutiny of the complaint petition and the materials brought on record, this Court finds that the allegations levelled by O.P. No.2 are largely general and omnibus in nature as to the exact role of the petitioner in the alleged acts of cruelty, assault or demand of dowry. It further appears that the matrimonial dispute between the parties had already culminated in a decree of divorce by mutual consent passed by the competent Family Court on 10.10.2012, which attained finality in absence of any challenge. The institution of the present complaint thereafter on 04.03.2013, without raising any objection to the said decree before an appropriate forum, creates serious doubt regarding the genuineness of the allegations, particularly those relating to coercion, fraud and forgery in obtaining the decree.



15. The Hon'ble Supreme Court in *Mohammad Miyan and Ors. v. The State of Uttar Pradesh and Anr.*, (Criminal Appeal No.1048 of 2018) has observed with respect to Section 498A of the Indian Penal Code as under:

“Section 498A of the IPC opens with the words “Whoever, being the husband or the relative of the husband of a woman....” Therefore, where the complainant approaches with a case that there has been a divorce long back i.e. four years ago before filing of the FIR, section 498A of IPC in terms would not be attracted. We accordingly consider it appropriate to quash the prosecution against all the accused persons under section 498A of IPC.....”

16. Moreover, from the sequence of events, it transpires that the parties had earlier entered into a compromise and thereafter consciously approached the Family Court for dissolution of marriage by mutual consent, which presupposes free will and voluntary participation of both sides. In such circumstances, the subsequent allegations of demand of money, cruelty and fraudulent procurement of divorce appear to be inherently improbable and unsupported by any cogent material. This Court also finds that the essential ingredients of the offences under Sections 417, 465 and 468 IPC are not *prima facie* made out, as there is no material to demonstrate deception or fabrication of documents in the manner alleged. In view of



the above, the continuation of the criminal proceeding against the petitioner appears to be an abuse of the process of law.

17. Now, 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 various 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**.

18. In view of the discussions made hereinabove, this Court is of the considered opinion that the allegations made in the complaint, even if taken at their face value, do not *prima facie* make out a case warranting criminal prosecution against the petitioner, and the continuation of the proceeding would amount to an abuse of the process of the Court. Accordingly, this Court finds that the present case is a fit one for exercise of inherent jurisdiction under Section 482 of the Code of Criminal Procedure for securing the ends of justice.



19. Accordingly, the present application is allowed.

The impugned order dated 12.02.2014 passed by the learned Sub-Divisional Judicial Magistrate, Begusarai in Complaint Case No. 402C of 2013, whereby cognizance has been taken against the petitioner under Sections 498A, 323, 417, 465, 468/34 of the Indian Penal Code, and the entire criminal proceeding arising therefrom qua the petitioner, presently pending before the learned Additional Chief Judicial Magistrate, Teghra, Begusarai, is hereby quashed.

20. The present application stands allowed.

21. The Interim Order granting stay of proceeding of Complaint case No.402C of 2013 is vacated.

22. Let a copy of this Order be communicated to the court concerned forthwith for information and necessary compliance.

(Sunil Dutta Mishra, J)

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