

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45588 of 2018

Arising Out of PS. Case No.-43 Year-2017 Thana- MAHILA PS District- Darbhanga

1. Sapna Devi @ Sapna Kumari W/o Devender Kumar, D/o Chhathu Ravidas R/o F-5/67, Sultanpuri, C Block, Saraswati Vihar, North West Delhi, Permanent R/o Rashtriyegunj, Mazar Sharif, Near Station Road, Phulwarisharif, P.S.- Phulwarisharif, Dist.- Patna
2. Vikash Chandra @ Vikash Chandra Ravi S/o Chhathu Ravidas R/o Rashtriyegunj, Mazar Sharif, Near Station Road, Phulwarisharif, P.S.- Phulwarisharif, Dist.- Patna, Presently Residing at Newalal Chauk, Vasant Vihar Colony, P.S.- Maranga, Purnea
3. Rachna Devi @ Rachna Kumari W/o Sri Kundan Kumar, D/o Chhathu Ravidas Presently Residing at Dujra, Rajapur Pul, P.S.- Buddhanagar, Patna, Permanent R/o Rashtriyegunj, Mazar Sharif, Near Station Road, Phulwarisharif, P.S.- Phulwarisharif, Dist.- Patna
4. Rohit Chandra S/o Chhathu Ravidas R/o Rashtriyegunj, Mazar Sharif, Near Station Road, Phulwarisharif, P.S.- Phulwarisharif, Dist.- Patna

... .. Petitioner/s

Versus

1. Nisha Kumari and Anr daughter of Mahesh Prasad Gupta, resident of Mohalla- Milan Chowk, Police Station- LaheriyaSarai, District- Darbhanga and
2. The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jagjit Roshan, Advocate
For the State	:	Mr. Chaubey Jawahar, APP
For the O.P. No.1	:	Mr. Rajib Ranjan Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

- 11 09-07-2026 1. Heard learned counsel for the parties as well as learned APP for the State.
2. The present Criminal Miscellaneous application has been preferred under Section 482 of the Code of Criminal Procedure for quashing the order dated 05.05.2018 (hereinafter referred to as ‘impugned order’) passed by the learned Sub-



Divisional Judicial Magistrate, Darbhanga, (hereinafter referred to as 'Magistrate') in Criminal Case No. 1547 of 2017, arising out of Darbhanga Mahila P.S. Case No. 43 of 2017, whereby cognizance has been taken for the offences under Sections 498A, 323, 341 read with section 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Dowry Prohibition Act, 1961 against the accused persons including the present petitioners and directed issuance of summons for appearance of accused persons.

3. The prosecution case, in brief, is that O.P. No.1 (informant) alleged that she came in contact with Ravikant Bharti (co-accused) in the year 2009 while pursuing her studies and, thereafter, both of them developed a love affair. It has been alleged that they solemnized marriage on 30.10.2010 according to Hindu rites and customs without the consent of their respective family members. It is further alleged that after the marriage they resided together in a rented house till 2012 and, subsequently, when O.P. No.1 insisted upon being taken to her matrimonial home, she was taken there where petitioners herein (the family members of the husband) objected to the marriage and allegedly stated that had he married elsewhere they would have received sufficient dowry and gifts. It is alleged that



present petitioners demanded two kathas of land and Rs.10 lakhs in cash from her parental family and, upon her expressing inability to fulfil the said demand, she was subjected to physical and mental cruelty. It is further alleged that thereafter her alleged husband developed intimacy with another woman and the family members supported him. It is further alleged that on 16.12.2015, O.P. No.1 was assaulted, her ornaments and belongings were taken away and she was driven out of her matrimonial home. On the basis of the aforesaid allegations, Darbhanga Mahila P.S. Case No. 43 of 2017 came to be instituted for the offences punishable under Sections 498A, 323, 341, 379, 313 read with section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act on 01.06.2017.

4. Upon completion of investigation, the Investigating Officer submitted charge-sheet against the accused persons for the offences punishable under Sections 498A, 323 and 341 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act. Upon perusal of material available on records including case diary and charge-sheet, the learned Magistrate, found prima facie case and accordingly, *vide* impugned order dated 05.05.2018 took cognizance of the offences punishable under Sections 498A, 323, 341 read with section 34 of the



Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act and directed issuance of summons against the accused persons. Aggrieved thereby, the present petitioners have preferred this present Criminal Miscellaneous Application invoking the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure for setting aside impugned order as well as entire criminal proceeding arising therefrom.

5. Learned counsel for petitioners submits that the continuation of the criminal proceeding against the present petitioners amounts to an abuse of the process of the Court. It is submitted that, as per the prosecution version, the present petitioners are brothers-in-law and married sisters-in-law of O.P. No.1. Learned counsel further submits that the allegations made in the FIR as well as the materials collected during investigation are wholly vague, general and omnibus in nature and no specific overt act or distinct role has been attributed to any of the present petitioners. Learned Counsel further submits that except making bald and sweeping allegations against all the family members, no material has been brought on record to *prima facie* establish the commission of any offence by the present petitioners. It is further submitted that all the petitioners except petitioner no.4



have been residing separately on account of their marriage or employment and have been implicated merely because of their relationship with the alleged husband.

6. Learned counsel for petitioners further submits that the very foundation of the prosecution case is disputed inasmuch as the alleged marriage between O.P. No.1 and the alleged husband has been specifically denied. Learned counsel further submits that during the course of investigation no documentary evidence regarding the alleged marriage could be collected and even the parents of O.P. No.1 did not support the allegation of marriage. He further submits that the materials collected during investigation do not disclose any *prima facie* case against the present petitioners and the learned Magistrate has taken cognizance in a mechanical manner without proper application of judicial mind. Placing reliance upon ***Rajesh Sharma and Ors. v. State of Uttar Pradesh and Anr.*** reported in ***(2018) 10 SCC 472***, learned counsel submits that the Hon'ble Supreme Court has held that the tendency to implicate all the relatives of the husband in matrimonial disputes on the basis of omnibus allegations deserves to be discouraged and that clear supporting material is required before criminal prosecution is permitted to continue against such relatives. It is thus submitted



that impugned order, and entire criminal proceeding arising therefrom in respect of present petitioners deserve to be set aside while exercising inherent jurisdiction of this court under section 482 of the Criminal Procedure Code.

7. Learned counsel for O.P. No.1 opposes the prayer for quashing and submits that the allegations made in the FIR and the materials collected during investigation *prima facie* disclose the commission of cognizable offences. Learned counsel further submits that the learned Magistrate has rightly taken cognizance after considering the materials on record including case diary and charge-sheet and that the correctness or otherwise of the allegations cannot be examined in a proceeding under Section 482 of the Code. It is further submitted that in D.V. Case No.24 of 2016 filed against husband of O.P. No.1 and Ors. *vide* order dated 18.11.2024, the learned Civil Judge, Senior Division XIV, Patna hold that both the parties have lived in a relationship that comes under the purview of Domestic relationship. It is thus submitted that present application is devoid of any merit and deserves to be set aside.

8. Learned APP for the State also opposes the application. Learned APP, however, fairly conceded that the present petitioners are the in-laws of O.P. No.1 and further



submits that this Court may pass appropriate order in the interest of justice.

9. Having heard learned counsel for the parties as well as learned APP for the State and perused the materials available on record. The principal question which falls for consideration before this Court is whether, in the facts and circumstances of the present case, continuation of the criminal proceeding against the present petitioners would amount to an abuse of the process of the Court so as to warrant exercise of the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure.

10. Before advertng to the merits of the case, it is appropriate here to discuss the scope and ambit of the inherent powers vested in the High Court under Section 482 of the Code of Criminal Procedure. The inherent jurisdiction preserved under Section 482 of the Code is intended to prevent abuse of the process of any Court and to secure the ends of justice. Though the power is of wide amplitude, the same is to be exercised sparingly, with great caution and only in exceptional circumstances where the Court is satisfied that allowing the criminal proceeding to continue would result in miscarriage of justice. At the stage of exercising jurisdiction under Section 482



of the Code, the High Court is not expected to undertake a meticulous appreciation of evidence or adjudicate disputed questions of fact. The Court is only required to examine whether the allegations contained in the FIR/complaint, if accepted at their face value, disclose the commission of any cognizable offence against the accused and whether continuation of the criminal proceeding would amount to abuse of the process of the Court.

11. At this stage, it is appropriate 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 Criminal Procedure Code especially in case of matrimonial offences. 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-A IPC. 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-A IPC 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.”

12. In the present case, it appears that the allegations against the present petitioners are general, omnibus and sweeping in nature. Though it has been alleged that all the family members demanded dowry and subjected O.P. No.1 to physical and mental cruelty, but neither any specific overt act or distinct role has been attributed any of the present petitioners. Except making bald allegations against all the family members collectively, no particulars have been furnished indicating the individual involvement of the present petitioners in the alleged commission of the offences.

13. At this stage, this Court also notices that learned counsel for the petitioners has vehemently contended that the very factum of marriage between O.P. No.1 and the alleged husband is seriously disputed and that the materials collected during investigation do not substantiate the allegation of marriage. However, this Court is not inclined to enter into the said disputed question of fact while exercising jurisdiction under Section 482 of the Code, as the same can appropriately be gone



into only upon appreciation of evidence.

14. This Court further notices that, as per the prosecution version, the present petitioners are brothers-in-law and married sisters-in-law of O.P. No.1. Even proceeding on the prosecution version, the allegations levelled against them remain wholly vague and omnibus. No date, time or circumstance has been specified as to which of the present petitioners demanded dowry, subjected O.P. No.1 to cruelty or committed any act constituting the offences alleged.

15. The Hon'ble Supreme Court has repeatedly cautioned that in matrimonial disputes there is an increasing tendency to implicate every member of the husband's family irrespective of their actual involvement. It has consistently been held that prosecution against the relatives of the husband cannot be sustained merely on the basis of bald, omnibus and sweeping allegations and that the complaint must disclose clear, specific and distinct allegations against each accused. The principles laid down by the Hon'ble Supreme Court are intended to ensure that criminal law is not used as a weapon to harass the relatives of the husband in the absence of any *prima facie* material indicating their involvement.

16. Applying the aforesaid principles to the facts of the present case, this Court is of the considered opinion that the



allegations against the present petitioners do not satisfy the essential requirement of disclosing their individual role in the alleged commission of the offences. The learned Magistrate has also taken cognizance without recording any reason indicating how the materials collected during investigation disclose a *prima facie* case against each of the present petitioners.

17. In such circumstances, permitting the criminal prosecution to continue against the present petitioners would amount to allowing a criminal proceeding to proceed solely on the basis of vague and generalized allegations. Such continuation would not only result in unnecessary harassment to the present petitioners but would also constitute an abuse of the process of the Court.

18. The present case squarely falls within the parameters laid down by the Hon'ble Supreme Court in ***State of Haryana & Ors. v. Bhajan Lal & Ors.***, reported in ***1992 Supp (1) SCC 335***, particularly the category where the uncontroverted allegations made in the complaint and the materials collected during investigation, even if taken at their face value and accepted in their entirety, fail to disclose the commission of any offence against the accused, thereby warranting exercise of the inherent jurisdiction of this Court to prevent abuse of the process of law and to secure the ends of justice.



19. Accordingly, the impugned order dated 05.05.2018 passed by the learned Sub-Divisional Judicial Magistrate, Darbhanga, in Criminal Case No. 1547 of 2017, arising out of Darbhanga Mahila P.S. Case No. 43 of 2017, so far as it relates to the present petitioners, is hereby set aside. Consequently, the entire criminal proceeding arising therefrom, qua, the present petitioners stands quashed.

20. The present criminal miscellaneous application is, accordingly, allowed.

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

22. Let a copy of this order be transmitted to the Court concerned forthwith for needful and compliance.

(Sunil Dutta Mishra, J)

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