

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54724 of 2015

Arising Out of PS. Case No.-443 Year-2012 Thana- BAHERA District- Darbhanga

1. Puniyanand Jha, son of Late Upendra Jha,
2. Archana Jha wife of Puniyanand Jha,
3. Chandra Mohan Jha, son of Puniyanand Jha,
4. Richa Rani wife of Chandra Mohan Jha, All are resident of Village- Chaugama, P.S.- Bahera, District- Darbhanga.
5. Laxmi Devi, daughter of Ramesh Choudhary, resident of Village- Dumari, P.S.- Biroul, District- Darbhanga.

... .. Petitioner/s

Versus

1. State of Bihar
2. Radha Rani wife of Krishna Mohan Jha (daughter of Phulchandra Rai), resident of Village- Chaugama, P.S.- Bahera, District- Darbhanga. At present, resident of Village- Basuham, P.S. Bahera, District- Darbhanga.
3. Pankaj Kumar Choudhary @ Pankaj Choudhary, S/O Udai Chandra Choudhary, Village+P.O.-Moro, PS Moro, District Darbhanga

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Prem Kumar Jha, Adv. Mr. Rajesh Kumar Jha, Adv. Mr. Mukesh Mishra, Adv. Ms. Meenakshi Priya, Adv.
For the State	:	Mr. Pramod Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

12 16-02-2026

I.A. No. 1417 of 2017

By way of this interlocutory application, the petitioners have prayed for the addition of an additional relief for setting aside the orders dated 13.06.2016, 06.09.2016 and 24.01.2017 passed in Cr. Revision Nos. 234/2016, 345/2016 and 25/2017 respectively by the court of learned District & Sessions Judge, Darbhanga, whereby the order dated 24.02.2016 passed



in Gr. No. 450/2012 and Tr. No. 298/2016 (arising out of Bahera P.S. Case No. 443/2012) by the court of learned S.D.J.M., Benipur, rejecting the petitioners' prayer for discharge, was affirmed.

2. Heard Mr. Prem Kumar Jha, learned counsel for the petitioners and Mr. Pramod Kumar Pandey, learned Additional Public Prosecutor for the State.

3. After having heard both the sides, this Court allows this interlocutory application and the petitioners' prayer to add the aforesaid relief in the main petition. Accordingly, the instant interlocutory application (**I.A. No. 1417 of 2017**) **stands disposed of.**

Cr. Misc. No. 54724 of 2015

4. The instant criminal miscellaneous petition has been preferred by the petitioners for setting aside the order dated 09.04.2013 passed by the court of learned A.C.J.M., Benipur (Darbhanga) in connection with Bahera P.S. Case No. 443/2012 (G.R. NO. 450/2012) whereby the cognizance of the offences under sections 494 and 498A read with section 34 of the Indian Penal Code (in short, 'IPC') and sections 3 and 4 of the Dowry Prohibition Act has been taken against the petitioners; and the petitioners have also prayed for discharge from the charges



framed upon them by way of above-mentioned interlocutory application (I.A. No. 1417 of 2017).

5. Learned APP for the State submits that in the light of the direction given by this Court on 07.01.2026, the notice was issued upon the O.P. No. 2 through the SHO concerned, however, the details of the address of the O.P. No. 2 could not have been found, due to which she could not be informed and the matter may be heard on merit.

6. Learned counsel for the petitioners submits that among the petitioners, petitioner No. 1 is the father-in-law of the informant (O.P. No. 2), petitioner No. 2 is the mother-in-law of the O.P. No. 2, petitioner No. 3 is the brother-in-law of the O.P. No. 2, petitioner No. 4 is the sister-in-law of the O.P. No. 2 and the petitioner No. 5 has no any kind of relationship with the O.P. No. 2 and accordingly, she is not a family member of either of the parties.

6.1. It is further submitted that in between the O.P. No. 2 and her husband, earlier two matrimonial suits for divorce had been filed by the husband of O.P. No. 2, which were later withdrawn by him, mainly on the ground of a compromise. Thereafter, the relation between them again became strained, and the husband again filed a third matrimonial suit, which is



still pending and running at the stage of evidence. In the FIR lodged by the O.P. No. 2, the alleged occurrence of physical and mental torture to O.P. No. 2 by the accused persons, including the petitioners, started just after few months of her marriage and remained continued till the filing of the undated typed written application to the police. From the perusal of the FIR, which is the basis of the prosecution case, it appears that the alleged cruelty was committed for several years with the O.P. No. 2, however, no any specific role of any of the petitioners was revealed by the O.P. No. 2, and even no any particular date showing the specific role or conduct of the petitioners regarding their participation in the commission of the alleged cruelty was also disclosed. Therefore, the entire allegations concerning to the period from 2007 to 2012, as revealed by O.P. No. 2, against the petitioners are entirely general and omnibus in nature. It is a settled position of law that in such type of cases involving general and omnibus allegations, the in-laws should not be harassed in a criminal proceeding. In support of this submission, learned counsel has placed reliance upon the judgment of the Hon'ble Supreme Court in the case of *Kahkashan Kausar @ Sonam and Others vs. State of Bihar and Others*, reported in (2022) AIR (SC) 820, and the relevant paragraph Nos. 18 and



19, upon which learned counsel has placed reliance, are reproduced as under:

“18. The above-mentioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498A 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.

19. 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 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.”

7. On the other hand, learned APP for the State submits that though the FIR does not disclose any specific role of any of the petitioners in the alleged cruelty but the allegations of the O.P. No. 2 is the subject matter of trial and a proper analysis can only be made after taking the evidences and one thing is quite clear that the O.P. No. 2 started to lead conjugal relationship on two occasions, which shows her *bona fide* intention and she was subjected to cruelty by her husband and in-laws.

8. After having heard both the sides and perused the relevant materials including the orders impugned. This Court finds that in the FIR lodged by the O.P. No. 2, any specific role of any of the petitioners in committing the cruel behaviour with the O.P. No. 2 has not been disclosed despite the said behaviour having started just few months after the marriage of the O.P. No. 2 and remained continued till the month of January, 2012, and such vagueness on the part of the O.P. No. 2 against the



petitioners in revealing their role in the commission of the alleged cruelty does not inspire the confidence of this Court to subject the petitioners to the trial for the alleged offences and in the absence of any specific role against any of the petitioners, the trial of the petitioners for the alleged offences would be complete harassment to them. Accordingly, I find force in the prayer made by the petitioners. The learned trial court as well as the revisional court did not appreciate the petitioners’ ground in right perspective, so, the orders which have been impugned in the main petition as well as in the interlocutory application (I.A. No. 1417 of 2014) including the orders impugned taking cognizance and rejecting the petitioners’ prayer for discharge are hereby set aside and the petitioners are discharged from all the allegations concerned to the alleged offences and they are exonerated from all the criminal liabilities having arisen against them from the impugned orders. Accordingly, the instant criminal miscellaneous petition stands allowed.

(Shailendra Singh, J)

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