

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86355 of 2023

Arising out of PS. Case No.-195 Year-2022 Thana- BARGAINIA District- Sitamarhi

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1. Umesh Prasad Sharma, Son of Late Ram Prasad Sharma, Resident of Village- Pachtaki Ram, PS- Bairgania, Distt- Sitamarhi
 2. Rama Sharma, Wife of Umesh Prasad Sharma, Resident of Village- Pachtaki Ram, PS- Bairgania, Distt- Sitamarhi
 3. Raman Kumar, Son of Umesh Prasad Sharma, Resident of Village- Pachtaki Ram, Ps- Bairgania, Distt- Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. Simmi Mishra, Wife of Mrityunjay, Resident of Village- Pachtaki Ram, PS- Bairgania, Distt- Sitamarhi At Present Resident of Block A 1, Gali No. 18, House No. 24, Bangali Colony, Santi Nagar, Burari , Delhi.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Singh, Advocate
For the State	:	Mr. Tapeswar Sharma, APP
For the Informant	:	Mr. Pushpendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL JUDGMENT

Date : 01-05-2026

Heard learned counsel for the petitioners, learned counsel for the Informant and learned Additional Public Prosecutor for the State.

2. Petitioners seek quashing of the order of cognizance dated 20.09.2023 passed by learned Sub-divisional Judicial Magistrate, Sadar, Sitamarhi in Bairgania P.S. Case No. 195 of 2022 by which he has taken cognizance for the offences under



Sections 341, 323, 498(A) and 504/34 IPC and Section 3/4 of Dowry Prohibition Act.

3. The prosecution case is that the informant was married to the son of Petitioner Nos. 1 and 2 on 26.05.2017 as per Hindu Rites and rituals. Thereafter, she was being subjected to cruelty due to non-fulfilment of demand of dowry and ultimately on 26.06.2022 she was ousted from the matrimonial home after snatching her belongings.

4. Learned counsel for the petitioners submits that Petitioner No. 1 is father-in-law, Petitioner No. 2 is mother-in-law and Petitioner No. 3 is the brother-in-law (Devar) of the informant. It is further submitted that there is general and omnibus allegation against the petitioners. It is also submitted that after filing divorce case by son of Petitioner Nos. 1 and 2 bearing Divorce Case No. 75 of 2022 on 21.03.2022 the present case has been lodged by the informant to save her skin.

5. Learned counsel for the informant as well as learned Additional Public Prosecutor for the State has vehemently opposed the quashing of the order of cognizance dated 20.09.2023.

6. A perusal of the records would show that allegations are primarily against husband. Moreover, the allegation against in-laws is general and omnibus without any specific detail of



objective material to support the allegation. Thus this Court holds that the present prosecution is nothing but an abuse of the process of the Court in view of Hon'ble Supreme Court decision rendered in the case of **State of Haryana vs. Chaudhary Bhajan Lal and Ors.** reported in **AIR 1992 SC 604**. Moreover, in the case of **Abhishek vs. State of Madhya Pradesh reported in [2023 SCC Online SC 1083]** Hon'ble the Supreme Court in Paragraph Nos. 13 to 16 has held as under:-

“(13) 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 alias Sonam v. State of Bihar [(2022) 6 SCC 599], this Court had occasion to deal with a similar situation where the High Court had refused to quash a FIR registered for various offences, including Section 498A 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 498A 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.

14. In Preeti Gupta v. State of Jharkhand [(2010) 7 SCC 667], this Court noted that the tendency to implicate the husband and all his immediate relations is also not uncommon in complaints filed under Section 498A IPC. It was observed that 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, as allegations of harassment by husband's close relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different complexion and such allegations would have to be scrutinised with great care and circumspection.

15. Earlier, in Neelu Chopra v. Bharti [(2009) 10 SCC 184], this Court observed that the mere mention of statutory provisions and the language thereof, for lodging a complaint, is not the 'be all and end all of the matter, as what is required to be brought to the notice of the Court is the particulars of the offence committed by each and every accused and the role played by each and every accused in the commission of that offence. These observations were made in the context of a



matrimonial dispute involving Section 498A IPC.

16. Of more recent origin is the decision of this Court in Mahmood Ali v. State of U.P. (Criminal Appeal No. 2341 of 2023, decided on 08.08.2023) on the legal principles applicable apropos Section 482 Cr.P.C. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482 Cr. P.C. 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.

7. Resultantly, the order of cognizance dated 20.09.2023 passed by learned Sub-divisional Judicial Magistrate, Sadar, Sitamarhi in Bairgania P.S. Case No. 195 of 2022 by which he has taken cognizance for the offences under Sections 341, 323, 498(A)



and 504/34 IPC and Section 3/4 of Dowry Prohibition Act is quashed so far as the petitioners are concerned.

8. Accordingly, the present petition is allowed.

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	

(Ansul, J)

