

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73736 of 2019

Arising Out of PS. Case No.-256 Year-2016 Thana- MANJHI District- Saran

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1. CHANDESHWAR SHARMA Son of Late Satya Narayan Sharma Resident of Village - Pandeypur, P.S.- Daraunda, Distt - Saran at Chapra.
 2. Rupwanti Devi @ Rupjhari Devi Wife of Sri Chandeshwar Sharma Resident of Village - Pandeypur, P.S.- Daraunda, Distt - Saran at Chapra.

... .. Petitioners

Versus

1. The State of Bihar Bihar
2. Priyanka Kumari Wife of Rajesh Kumar Sharma, D/o Krishnadeo Sharma Resident of Village - Manjhi Kanchanpur, P.S.- Manjhi, Distt - Saran at Chapra.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Shubhesh Pandey, Adv.
	:	Mr. Amit Kumar Mishra, Adv.
For the O.P No. 2/	:	Mr. Nawal Kihore Singh, Adv.
	:	Mr. Manohar Prasad Singh, Adv.
For the Opposite Party/s	:	Mr. Nand Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 16-07-2026 Heard the parties.

2. That this is an application for quashing the Order taking Cognizance dated 30.08.2018 passed by learned Additional Chief Judicial Magistrate IInd, Saran at Chapra in connection with Manjhi of 2016 of Police Station Case No. 256 whereby and whereunder the cognizance of the offences has been taken under Sections 341, 323, 313, 307, 498 (A), 504, 506 / 34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.



3. The prosecution case is that the Complainant has filed a complaint before the Court of Chief Judicial Magistrate, Saran at Chapra on 30.09.2016 which was sent to the concerned police station for institution of the FIR vide order dated 14.10.2016 under Section 156(3) Cr.P.C. alleging therein that she was married with Rajesh Kumar Sharma on 26.11.2015 and when she went to her matrimonial home the family members of her in-laws' house started torturing her and threatened to kill her.

4. Learned counsel for the petitioners submits that Petitioner no. 1, namely, Chandeshwar Sharma is the father-in-law and petitioner no. 2, namely, Rupwanti Devi, is the mother-in-law of the complainant/informant.

5. Learned counsel for the petitioners has placed reliance on the judgment of Hon'ble Supreme Court rendered in the cases of **Anand Kumar Mohatta and Anr. vs. State (NCT of Delhi) Department of Home and Anr.** reported in **(2019) 11 SCC 706** and **Abhishek vs. State of Madhya Pradesh** reported in **[2023 SCC Online SC 1083]**. The relevant paragraph Nos. 13 to 16 of the case of



Abhishek (Supra) are 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 then 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."

6. Learned counsel for the Informant and learned Additional Public Prosecutor for the State have vehemently opposed the prayer for quashing of the impugned order of cognizance dated 30.08.2018.

7. It is submitted that one of the co-ordinate Bench of this Court already quashed the proceeding against other co-accused persons, who are in-laws and facing more serious allegation through Cr. Misc. No. 83578 of 2019 and



24237 of 2019 respectively.

8. In view of the aforesaid, as petitioners are in -laws, facing very general and omnibus allegation *qua* committing cruelty, the order of cognizance dated 30.08.2018 passed by learned Additional Chief Judicial Magistrate-II, Saran at Chapra in Manjhi P.S. Case No. 256 of 2016 for the offences under Sections 341, 323, 313, 307, 498(A), 504 and 506/34 of the Indian Penal Code and Sections 3/4 of Dowry Prohibition Act by which the petition filed under Section 227 of Cr.P.C. was dismissed is quashed herewith.

9. Petition stands allowed.

10. Let a copy of this matter be sent to the learned trial court immediately.

(Chandra Shekhar Jha, J.)

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