

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31582 of 2018

Arising Out of PS. Case No.-472 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Sudhir Srivastava @ Sudhir Kumar Srivastava and Anr son of late Someshwar Prasad Srivastava
 2. Sangita Srivastava @ Sangeeta Sinha wife of Sudhir Kumar Srivastava Both residents of C/o Anita Sundram, 60/2 B Kailash Puri, P.S. Mugalsarai, District Chandauli U.P.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Sushma Kumari wife of Ajay Kumar, daughter of Late Umesh Prasad resident of Dwarika Nath Lane, Gali No. 3, Opposite Nageshwar Sharan Advocate, Salimpur Ahra, P.S. Gandhi Maidan, District Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Pranshu, Advocate Mr. Abhijeet Chandra, Advocate Ms. Saloni Kumari, Advocate
For the Opposite Party/s	:	Mr. Mithilesh Kumar Gupta, APP

CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR
ORAL ORDER

12 27-07-2026 Heard learned counsel for the petitioners and learned
counsel for the State.

2. This application has been filed for quashing of the order dated 16.11.2017 passed by learned Sub-Divisional Judicial Magistrate, Patna in connection with Complaint Case No. 472(C) of 2017, whereby cognizance under Section 498(A) of the Indian Penal Code has been taken against the petitioners.

3. The prosecution case, in brief, is that Opposite Party No. 2, Sushma Kumari, filed a complaint before the Court



of the learned Chief Judicial Magistrate, Patna, alleging that her marriage with accused No. 1, Ajay Kumar, was solemnised on 13.07.2013 according to Hindu rites and customs. She stated that she is the only daughter of her parents and that her three brothers spent about ₹10 lakhs on gifts, the dowry, and marriage arrangements. She further alleged that one of her brothers paid ₹4 lakhs to accused No. 6, Nishi, towards the dowry. According to the complaint, after the marriage she went to her matrimonial home and resided there. On 02.02.2016, accused Abha Kumari, Ajay Kumar, and Sangeeta Srivastava allegedly took away all her gold ornaments worth about ₹4 lakhs on the pretext of keeping them safely in a locker. Thereafter, all the accused allegedly pressurized her to ask her brother to purchase a flat in Delhi for Ajay Kumar, who was employed as an engineer in a private company there. It has further been alleged that Ajay Kumar took her to Delhi, where she lived with him for several months, but was subjected to humiliation, insults, and filthy abuses by all the accused persons for not fulfilling the demand for a flat. On 20.12.2016, she was brought back to the matrimonial house at Patna and, thereafter, was compelled to live either there or at her parental home, as the accused never took her back to Delhi. She also alleged that her husband and



mother-in-law deserted her in Patna and refused to keep her with them in Delhi, unless the demand for a flat was fulfilled, despite this, the complainant expressed her willingness to reside with her husband and mother-in-law with dignity and honour. It is also alleged that her brother, Kumar Sachin, convened several panchayats to resolve the dispute, but the accused remained unwilling to keep her with them.

4. Learned counsel for the petitioners has submitted that the petitioners are the elder brother-in-law (*Bhaisur*) and the elder sister-in-law (*Gotani*) of the complainant. It has further been submitted by learned counsel for the petitioners, referring to the solemn affirmation of the complainant as well as the statement of enquiry witnesses, that the petitioners reside at Uttar Pradesh and have no concern with the day to day affairs of the complainant. It has further been submitted that the present allegations against the petitioners have been levelled in the background of dispute with her husband and that the entire family members including the petitioners have been implicated in the present case. It has further been submitted that the entire occurrence allegedly took place at Kaimur as well as Delhi. Learned counsel for the petitioners has relied upon the judgments of the Hon'ble Supreme Court in the case of



Priti Gupta versus State of Jharkhand reported in 2010 (7) SCC 667 as well as the case of *Geeta Malhotra versus State* reported in 2012 (7) SCC 667 and referring to that it has been submitted that there is a tendency to implicate the family members of the husband in false cases. It has further been submitted that the present prosecution against the petitioners is attended with malicious intent, personal vendetta and to spite personal score. It has further been submitted that the petitioner no. 1 used to visit his house along with the petitioner no. 2, his wife only on special occasions. It has further been submitted that the allegations against the petitioners are only vague and general, without attributing any specific act. It has further been submitted that there is a growing tendency to include the name of the relatives in matrimonial dispute under Section 498A I.P.C. Learned counsel for the petitioners has further submitted that the allegations are vexatious and malicious. It has further been submitted that the complainant has misused the provisions of law and has abused the process of the Court. It has further been submitted that cognizance has been taken against the petitioners in a mechanical manner without applying judicial mind. Lastly, it has been submitted that the impugned order taking cognizance is bad in law and erroneous on facts.



5. Learned counsel for the State has opposed the prayer of the petitioners.

6. Heard the parties and perused the records.

7. Considering the facts and circumstances, while there are general and omnibus allegations against the petitioners and petitioners' reliance upon the pronouncements of the Hon'ble Supreme Court shows that the prosecution against the petitioners is an abuse of process of court and appears to be vexatious and malicious.

8. In view of such, the order taking cognizance dated 16.11.2017 passed by learned Sub-Divisional Judicial Magistrate, Patna, in connection with Complaint Case No. 472(C) of 2017 is hereby quashed with respect to petitioners only.

9. The application stands allowed.

(Praveen Kumar, J)

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