

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32128 of 2018

Arising Out of PS. Case No.-146 Year-2017 Thana- SRINAGAR District- West Champaran

1. Parchi Khatoon @ Marchi Khatoon @ Shamila Khatoon, Wife of Mainuddin Gaddi, R/o Vill.- Pujara Patjirwa, P.S.- Srinagar Pujaha, District- West Champaran.
2. Chhotelal Gaddi, Son of Nageshwar Gaddi, R/o Vill.- Pujara Patjirwa, P.S.- Srinagar Pujaha, District- West Champaran.
3. Sabrun Khatoon, Wife of Chhotelal Gaddi, R/o Vill.- Pujara Patjirwa, P.S.- Srinagar Pujaha, District- West Champaran.
4. Nehal Gaddi, Son of Chhotelal Gaddi, R/o Vill.- Pujara Patjirwa, P.S.- Srinagar Pujaha, District- West Champaran.
5. Nasib Gaddi @ Nisib Gaddi, Son of Dhunmun Gaddi, R/o Vill.- Pujara Patjirwa, P.S.- Srinagar Pujaha, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shayara Khaton W/o Sarfuddin Gaddi, D/o Aliraj Gadi, R/o Vill.- Pujaha Patjirwa, Gadiyani Tola, P.S.- Srinagar Pujaha, District- West Champaran, at present Vill.- Khap Tola, P.S.- Srinagar, District- West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bimlesh Kumar Pandey, Advocate
For the State	:	Mr. Ram Sevak Choudhary, APP
For the O.P. No. 2	:	Mr. Mithilesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

6 05-05-2026 1. Heard learned counsel for the parties as well as learned APP for the State.

2. The present application has been filed for quashing of the order dated 05.01.2018 (hereinafter referred to as 'Impugned Order') passed by the learned J.M., 1st Class, Bettiah, West Champaran (hereinafter referred to as 'Trial Court') in Trial No. 3920 of 2018 arising out of Srinagar



(Pujaha) P.S. Case No. 146 of 2017, whereby cognizance has been taken for the offences under Sections 341, 323, 498A of the Indian Penal Code, 1860 (hereinafter referred to as 'I.P.C') and Sections 3 and 4 of the Dowry Prohibition Act, 1961 (hereinafter referred to as 'D.P. Act') against accused persons including petitioners and directed issuance of summons against them.

3. The prosecution case, in brief, is that the marriage of the informant (O.P. No. 2) was solemnized with accused Sarfuddin Gaddi and out of the wedlock she was blessed with four children. It is alleged that after three years of marriage, her husband and his family members, including the present petitioners, started subjecting her to physical and mental cruelty and assaulted for demand of dowry and ultimately driven her out along with her children. Her belongings and articles were also allegedly snatched by the accused persons. On the basis of above allegation, O.P. No. 2 has lodged a complaint before S.H.O, Srinagar P.S, which got registered on 16.10.2017 as an F.I.R bearing Srinagar (Pujaha) P.S. Case No. 146 of 2017. Upon completion of investigation, I.O submitted the charge-sheet against accused person including the petitioners herein for the offences under Sections 341, 323, 498A of the I.P.C and



Sections 3 and 4 of D.P. Act.

4. Upon perusing the F.I.R., charge-sheet and the materials available in the case diary, the learned Trial Court, on finding *prima facie* case, took cognizance against the accused persons including petitioners herein for the offences under Sections 341, 323, 498A of I.P.C and Sections 3 and 4 of D.P. Act and directed issuance of summons against the accused persons including the present petitioners *vide* impugned order. Aggrieved thereby, petitioners herein have preferred this present Criminal Miscellaneous Application.

5. Learned counsel for the petitioners submits that the petitioners have falsely been implicated in the present case due to matrimonial discord and with an ulterior motive to harass the entire family of the husband. Learned counsel of petitioners further submits that petitioner no. 1 is *Gotni*, petitioner no. 2 is *Nandosi*, petitioner no. 3 is the *Nanad*, petitioner no. 4 is Nephew and petitioner no. 5 is cousin of husband of O.P. No.2. They are living separately and have no concern with the day-to-day matrimonial affairs of O.P. No. 2 and her husband. Learned counsel further submits that from bare perusal of the F.I.R., no specific overt act or distinct role has been attributed to the present petitioners and the allegations made against them are



vague, omnibus and general in nature. No specific demand of dowry, date, place or particular incident has been disclosed in the F.I.R. so as to constitute the alleged offences. The petitioners have neither demanded any dowry nor subjected the informant to cruelty as alleged.

6. Learned counsel further submits that prior to the present case, the O.P. No. 2 had already instituted Complaint Case No. 850 (C) of 2017 dated 17.05.2017 against the same set of accused persons for the same allegations, wherein the learned C.J.M, Bettiah, after inquiry, found only offences under Sections 323 and 504 I.P.C. to be made out and issued process accordingly *vide* order dated 07.09.2017. Learned counsel further submits that after finding that cognizance was taken for lesser offences, O.P. No. 2 maliciously instituted the present F.I.R. on 16.10.2017 with exaggerated allegations under Section 498A I.P.C. and the Dowry Prohibition Act, which is nothing but an abuse of the process of law and hit by the principle of double jeopardy. He further submits that there are material contradictions in the allegations, inasmuch as in the earlier complaint O.P. No. 2 stated that she lived peacefully in her matrimonial home for about 15 years and was blessed with four children, whereas in the present F.I.R. it is alleged that cruelty



started after three years of marriage. Such contradictory stands clearly show falsity and *mala fide* behind the prosecution. Learned counsel has placed reliance upon judgment of Hon'ble Supreme Court in ***Maram Nirmala & Anr. v. The State of Telangana & Anr.*** reported in **2025 SCC OnLine SC 2913** and judgment of Co-ordinate Bench of this court in ***Md. Nausad Khan & Ors. v. State of Bihar & Anr.*** reported in **2023 SCC OnLine Pat 9587**, wherein it was held that criminal proceedings are not allowed to continue on the basis of vague, omnibus and general allegations against the relatives of the husband in matrimonial offences. It is thus submitted that the learned Trial Court has passed the impugned order in a mechanical manner without proper application of judicial mind and continuance of the criminal proceeding against the petitioners would amount to abuse of the process of the Court; hence, the order taking cognizance is fit to be quashed.

7. Learned counsel for O.P. No. 2 conceded the fact that petitioners are in-laws of the informant/O.P. No.2 against whom there is no specific allegations. Father-in-law and mother-in-law of the informant who were made accused in this case have already died. He also conceded that the informant had filed complaint case bearing Complaint Case No. 850 (C) of 2017



against the accused persons under Sections 498A, 406, and 323 I.P.C. in which the learned Trial Court has taken cognizance under Section 323 and 504 I.P.C.

8. Learned counsel for O.P. No.2 and the learned A.P.P. for the State submit that in view of the facts and circumstances of the case, the appropriate order may be passed.

9. Having heard the learned counsel for the parties as well as the learned A.P.P. for the State and upon perusal of the materials available on record, it appears that the marriage of O. P. No. 2 was solemnized with accused Sarfuddin Gaddi and out of the wedlock four children were born. It is alleged that after about three years of marriage, her husband and his family members including the present petitioners started subjecting her to cruelty and assault on account of demand of dowry and ultimately she was driven out from her matrimonial home along with her children after her belongings were snatched. Subsequently, on the basis of available records, learned Trial Court, took cognizance and directed issuance of summons against accused persons including petitioner herein *vide* impugned order. The main lis before this court is as to “*whether the impugned order requires intervention of this court in exercise of inherent jurisdiction.*”



10. The Hon'ble Supreme Court in *Maram Nirmala* (*supra*) has explained the implication of implicating relatives of husband in matrimonial offences and has held as under:

“17. This Court speaking through one of us (B.V. Nagarathna, J.) in Dara Lakshmi Narayana, while dealing with the issue of quashing of criminal proceedings instituted by the respondent wife therein against her husband and in-laws who were charged with offences punishable under Sections 498A of the IPC and Sections 3 and 4 of the DP Act, 1961, held as follows:

“27. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, Appellants 2 to 6, who are the members of the family of Appellant 1 have been living in different cities and have not resided in the matrimonial house of Appellant 1 and Respondent 2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process of the law in the absence of specific allegations made against each of them.

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30. The inclusion of Section 498-A IPC by



way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498-AIPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinised, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498-A IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently, this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.

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31. We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under Section 498-A IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding. That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counterblast to the petition for dissolution of marriage sought by the first appellant, husband of the second respondent herein, a complaint under Section 498-A IPC is lodged by the latter. In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property



or valuable security in the form of dowry. However, sometimes it is misused as in the present case.

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34. We, therefore, are of the opinion that the impugned FIR No. 82 of 2022 filed by Respondent 2 was initiated with ulterior motives to settle personal scores and grudges against Appellant 1 and his family members i.e. Appellants 2 to 6 herein. Hence, the present case at hand falls within Category (7) of illustrative parameters highlighted in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 :1992 SCC (Cri) 426]. Therefore, the High Court, in the present case, erred in not exercising the powers available to it under Section 482CrPC and thereby failed to prevent abuse of the Court's process by continuing the criminal prosecution against the appellants.”

11. In the present case, from perusal of the F.I.R., it appears that except general and omnibus allegations, no specific overt act has been attributed to the petitioners. No particular date, time, place or specific instance of demand of dowry has been disclosed against them.

12. The settled legal position in matrimonial disputes under Section 498A I.P.C. is that relatives of the husband should not be compelled to face criminal prosecution on the basis of vague, general and omnibus allegations without any specific role being attributed to them. Mere implication of all family members in a matrimonial dispute, particularly in-laws and



relatives living separately, without clear allegations of active participation in cruelty or dowry demand, amounts to misuse of the criminal process and warrants interference by the Court.

13. It further appears that prior to the present F.I.R., O.P. No. 2 had already instituted Complaint Case No. 850(C) of 2017 against the same set of accused persons on similar allegations, wherein cognizance was taken only for the minor offences under Sections 323 and 504 I.P.C. There is also contradiction in the stand of the informant, as in the earlier complaint she stated that she lived peacefully in her matrimonial home for about 15 years, whereas in the present F.I.R. she alleges that cruelty started after three years of marriage.

14. Considering the nature of allegations, absence of specific and distinct accusations against the petitioners, the contradictory stand taken by O.P. No. 2 in the earlier complaint and the present F.I.R., and the settled principle governing prosecution of relatives in matrimonial disputes, this Court finds that continuation of the criminal proceeding against the petitioners herein would amount to abuse of the process of the Court.

15. Resultantly, in view of the discussions made hereinabove, this court is of the considered opinion that the



impugned order taking cognizance as well as the entire criminal proceeding in connection with Trial No. 3920 of 2018 arising out of Srinagar (Pujaha) P.S. Case No. 146 of 2017, qua petitioners, are hereby quashed.

16. The present Criminal Miscellaneous Application, accordingly, stands allowed.

17. Interim Order, if any, is vacated.

18. Let a copy of this order be communicated to the court concerned forthwith for information and necessary compliance.

(Sunil Dutta Mishra, J)

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