

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.140 of 2025**

Arising Out of PS. Case No.-61 Year-2023 Thana- MAHILA PS District- Aurangabad

Sumitra Devi, W/o Ramesh Prasad @ Ramesh Prasad Gupta, R/O Vill.- Akodi Gola, P.S.- Akodi Gola, Dist.- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Simran Kumari, Wife of Sunny Kumar, D/O Vinod Kumar, R/O Vill.- Akodi Gola, P.S.- Akodi Gola, Dist.- Rohtas. At Present R/at Ward no.7, P.S.- Nabinagar, Dist.- Aurangabad.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Aman Vishal, Advocate
For the Opposite Party/s	:	Mr. Nawal Kishore Prasad, APP
For the Opposite Party No.2:	:	Ms. Mukul Kumari, Advocate

**CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
CAV JUDGMENT**

Date : 23-02-2026

Heard Mr. Aman Vishal, learned counsel for the petitioner, Ms. Mukul Kumari, learned counsel for the opposite party no.2 and learned A.P.P. for the State.

2. The present application has been filed by the petitioner invoking the inherent jurisdiction of this Hon'ble Court for quashing the order dated 02.04.2024 passed by the learned Sub-divisional Judicial Magistrate, Aurangabad (Bihar) in Trial No.1898 of 2024 arising out of Aurangabad Mahila P.S. Case No.61 of 2023 dated 05.11.2023 by which cognizance for the offence under Sections 341, 323, 498A, 504, 506, 34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition



Act, 1961 has been taken against the petitioner.

3. The facts giving rise to the present application are to the effect that the informant, Simran Kumari/ opposite party no.2 alleged that her marriage was solemnized with Sunny Kumar on 28.06.2023 in Aurangabad and at the time of marriage, cash of Rs.30,00,000/- was given along with jewelry and other household articles as gifts. It is alleged that after reaching her matrimonial house, she was demanded a motorcycle and diamond ring and when she showed her inability, she was abused and assaulted by Sunny Kumar (husband) and Sumitra Devi mother-in-law (petitioner), Puja Kumari and Mita Devi. It is alleged that when the parents of the informant/ opposite party no.2 came for conciliation, even they were abused and ousted from her matrimonial house along with the informant/ opposite party no.2. It is alleged that the husband of the informant/ opposite party no.2 took her back again on 05.11.2023, however, the husband and mother-in-law started harassing her again for dowry. It has lastly been alleged that her husband had locked her in a room and had assaulted her and she was also four months pregnant at the relevant time.

4. Upon such complaint, Aurangabad Mahila P.S. Case No. 61 of 2023 was registered for the offences under



Sections 341, 323, 504, 506, 498A and 34 of the Indian Penal Code against Sunny Kumar (husband), Sumitra Devi mother-in-law (petitioner), Puja Kumari and Mita Devi.

5. After investigation, the I.O. submitted charge-sheet for the aforesaid offences along with Section 3/4 of the Dowry Prohibition Act, 1961 and subsequently, upon submission of the charge-sheet cognizance was also taken vide order dated 02.04.2024 against accused Sunny Kumar and the petitioner for the alleged offences.

6. Learned counsel for the petitioner assails the impugned order taking cognizance on the ground that the present case is a fall out of matrimonial discord between husband and the wife and she has falsely been implicated in the present matter on false and fabricated story. It has further been submitted that from perusal of the FIR, it would appear that barring general and omnibus allegation of cruelty alleged against the petitioner, there is nothing specific alleged against her. It has next been submitted that during the course of investigation no independent witness has supported the prosecution allegations and only the family members of the informant/opposite party no.2 have been inquired during the investigation and they have only repeated what has been stated



in the FIR.

7. Learned counsel for the petitioner submits that in fact the informant had been creating trouble for the son of the petitioner, i.e., the husband of the informant/opposite party no.2 and on account of such threat, her son, Sunny Kumar had filed an informatory application dated 18.08.2023 before the learned Sub-divisional Judicial Magistrate, Dehri On-sone, Rohtas, wherein he had categorically stated that he had apprehension of a false case being lodged against him by his wife, the informant/opposite party no.2 or her father.

8. Learned counsel for the petitioner submits that the fact that the petitioner was himself very perturbed by the actions of the opposite party no.2 and because of her behaviour and regularly leaving him and going back to his parents' house, that he filed an application for restitution of conjugal rights and the same was registered as Matrimonial Case No. 402 of 2023, however, the informant has chosen not to appear even after several issuances of notice and lastly, paper publication has also been made.

9. Learned counsel for the petitioner submits that the petitioner, only because she happens to be the mother of co-accused Sunny Kumar husband of the informant/ opposite party



no.2, this false case has been lodged with vague and vexatious allegations. The lodging of the FIR amounts to an abuse of the process of law and if the same is permitted to proceed ahead, it would amount to allowing a malicious prosecution to continue.

10. Learned counsel for the opposite party no.2 has submitted while referring to her counter affidavit that the marriage of the opposite party no.2 with the petitioner's son was solemnized on 18.06.2023 and she also became pregnant, however, the petitioner and his son had been assaulting opposite party no.2 and had also damaged her unborn child. It has been stated by the learned counsel for the opposite party no.2 that there are specific allegations of demand of dowry and torture against her and all the witnesses during investigation have supported the allegations against the petitioner. It has been submitted that the opposite party no.2 was confined in a room by the son of the petitioner and the petitioner both and she was rescued by the help of co-villagers. It has been contended that the petitioner has recently appeared before the learned Principal Judge, Family Court, Rohtas in the matrimonial case filed by the son of the petitioner, her husband.

11. Learned counsel for the opposite party no.2, thus, submits that the order taking cognizance is legal and has been



passed after taking into account the evidence which has come during the course of investigation and there is an allegation against the petitioner to be along with her son in torturing her for demand of dowry.

12. Having heard the learned counsel for the parties and upon perusal of their respective pleadings, it is a case of matrimonial discord between the petitioner's son and the opposite party no.2. It is clear that on one hand the petitioner's son has filed a matrimonial case for restitution of conjugal rights and on the other the opposite party no.2 lodged an FIR for the offences under Section 498A and other ancillary offences.

13. On going through the facts of the case, it transpires that the marriage was solemnized on 28.06.2023, while the first petition was filed by the son of the petitioner on 18.08.2023, i.e., within two months of their marriage, as an informatory application of being falsely implicated in the case. The conduct of the son of the petitioner further speaks about his intentions that he has filed an application for restitution of conjugal rights which also goes on to show that it was the opposite party no.2, who was refraining from being with the petitioner within few months of their marriage.

14. At this juncture, it is relevant to refer to the



judgment pronounced by the Hon'ble Supreme Court in the case of ***Dara Lakshmi Narayana and ors. vs. State of Telangana and Anr.*** reported in **(2025) 3 SCC 735**, wherein it was observed:

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.

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-A IPC 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.

15. In view of the aforesaid judicial pronouncements and the facts and circumstances of the case the implication of the petitioner with general and omnibus allegations along with her son is found to be a super addition and therefore, the observations of the Hon'ble Supreme Court with regard to the family members being implicated in the case of matrimonial discord with generalized and sweeping accusations not supported the by the concrete evidence, this Court does not find it proper that the criminal proceedings as against the petitioner



may continue and therefore the order dated 02.04.2024 passed by the learned Sub-divisional Judicial Magistrate, Aurangabad (Bihar), in Trial No.1898 of 2024 arising out of Aurangabad Mahila P.S. Case No.61 of 2023 dated 05.11.2023 by which cognizance for the offence under Sections 341, 323, 498A, 504, 506, 34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act, 1961 has been taken against the petitioner is hereby quashed.

16. Accordingly, the application stands allowed.

(Sourendra Pandey, J)

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AFR/NAFR	NAFR
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