

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46 of 2025

Arising Out of PS. Case No.-294 Year-2021 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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Renu Devi, D/o Mohan Prasad, R/O- Vill- Mohalla old Exchange Road, Ward
no. 18, P.S- Sitamarhi, Distt- Sitamarhi.

... .. Petitioner

Versus

1. The State of Bihar
2. Dileep Gupta S/o Late Kamla Prasad R/o vill - Sriram Path, Koiriya Tola,
ward no. 25, P.S. - Raxaul, Distt.- East Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Rajesh Ranjan, Advocate Mr.Md.Farooq, Advocate Mr.Akshay Tripathi, Advocate Mr.Himanshu Ranjan, Advocate
For O.P. No.2	:	Mr. Dharendra Kumar, Advocate
For the State	:	Ms.Renu Kumari, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL JUDGMENT

Date : 05-01-2026

Heard Mr. Rajesh Ranjan, learned counsel for the
petitioner, Mr. Dharendra Kumar, learned counsel for the
O.P.No.2 and Ms. Renu Kumari, learned A.P.P. for the State.

2. The present application under Section 528 of the
Bharatiya Nagarik Suraksha Sanhita, 2023 has been preferred
for quashing the order dated 28.03.2022, whereby the learned
Judicial Magistrate, 2nd Class, Raxaul at Motihari in Complaint
Case No. 294/2021 (Enquiry No. 02/22) has taken cognizance
of the offence under section 323,341,504 and 506 of the Indian
Penal Code and issued processes against the petitioner.



3. The prosecution case, as alleged, is that the complainant, who is the father of the daughter-in-law of the petitioner, has submitted a compliant petition stating therein that his daughter was subjected to harassment on account of demand of dowry and she was driven out from her matrimonial home, pursuant to which an FIR was lodged on 21.03.2021. It is further alleged that on 15.09.2021, thereafter, the complainant along with his daughters went to the house of the petitioner to take the clothes of his daughter and whereupon the petitioner allegedly closed the gate, abused them and threatened them for dire consequences. On the basis of the said allegations, the present complaint has been instituted.

4. Learned counsel for the petitioner submits that the entire prosecution story is false, fabricated and malicious, and has been instituted only to harass the petitioner. It is contended that there is no specific or overt allegation against the petitioner which would constitute the alleged offences. Learned counsel for the petitioner further submits that the complaint has been instituted after an unexplained delay of nine days and no satisfactory explanation for such delay has been explained, which further creates doubt regarding the genuineness of the prosecution case. Learned counsel for the petitioner further



submits that a material contradiction exists in the case of the complainant. While in the complaint petition it has been stated that no injury was sustained, but in the Solemn Affirmation, it is alleged that injuries were sustained. Such inconsistency goes to the root of the prosecution case and seriously affects its credibility.

5. Learned counsel for the petitioner has placed reliance upon the Judgment of the Hon'ble Supreme Court in the case of *State of Haryana and Others v. Bhajan Lal and Others*, reported in *1992 Supp (1) SCC 335*, wherein categories were laid down for exercise of inherent powers to quash criminal proceedings, including cases where allegations are inherently improbable and proceedings are maliciously instituted to harass the accused.

6. Reliance has also been placed upon in the case of *Geeta Mehrotra & Anr. v. State of U.P.*, reported in *(2012) 10 SCC 741*, wherein the Hon'ble Supreme Court has held that mere casual reference to family members in matrimonial disputes, without specific allegations of active involvement, does not justify criminal prosecution. The Court cautioned against the growing tendency to implicate all family members in matrimonial disputes.



7. Learned counsel for the State and learned counsel for the opposite party no.2 opposed the prayer made on behalf of the petitioner and they have supported the impugned order.

8. I have considered the submissions advanced by the learned counsel for the parties and perused the materials available on record. On perusal of the complaint and the statements recorded during inquiry, it appears that the present complaint case has been instituted mala fide, arising out of matrimonial discord between the parties. The allegations are general and omnibus in nature, lacking specific particulars, and do not *prima facie* disclose the essential ingredients of the alleged offences so far as the petitioner is concerned.

9. Further, the order taking cognizance passed by the learned Magistrate is cryptic and non-speaking. The Hon'ble Supreme Court in the case of ***State of Haryana and Others v. Bhajan Lal and Others*** (supra), in para 102, held as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein



such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- (1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
- (2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*
- (3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
- (4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*
- (5) Where the allegations made in the*



FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

10. In the case of *Inder Mohan Goswami & Anr.*

v. State of Uttaranchal & Ors. reported in ***(2007) 12 SCC 1***, the Hon’ble Supreme Court has consistently held that inherent powers may be exercised to prevent abuse of the process of law and to secure the ends of justice. The powers possessed by the High Court under section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The court must be careful to see that its decision in



exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution.

11. In view of the aforesaid facts and settled principles of law as also the various pronouncements made by Hon’ble Supreme Court herein above, this Court finds substance in the submissions made on behalf of the petitioner and as such this Court is of the considered opinion that continuation of the criminal proceedings against the petitioner would amount to abuse of the process of the court and would not serve the ends of justice.

12. In the light of facts and circumstances, discussed above, the petitioner has made out a case so as to interfere with the order taking cognizance dated 28.03.2022, passed by the learned Judicial Magistrate, 2nd Class, Raxaul at Motihari in Complaint Case No. 294/2021 (Enquiry No. 02/22). Accordingly, it is set aside.

13. The present Criminal Miscellaneous No. 46 of 2025 stands allowed.

(Rudra Prakash Mishra, J)

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