

IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.7185 of 2024

Arising Out of PS. Case No.-113 Year-2022 Thana- DURGAWATI District- Kaimur (Bhabua)

- 1
2.
- Versus
1.

The State of Bihar
2.

... .. Opposite Parties

**Appearance :**  
For the Petitioners : Mr. Sanjay Kumar Giri, Advocate  
Mr. Mritunjay Harsh, Advocate  
For the State : Ms. Gulnar Begum, APP  
For the O.P. No.2 : Mr. Umesh Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL JUDGMENT**  
**Date : 24-06-2025**

Heard learned counsel for the petitioner, learned  
APP for the State and learned counsel appearing for the O.P.  
No.2.

2. The present petition has been field by the  
petitioners for quashing of the cognizance order dated  
22.03.2023 passed by learned S.D.J.M., Mohania, Kaimur in  
connection with Durgawati P.S. Case No.113 of 2022  
whereby the learned jurisdictional Magistrate has taken



cognizance for the offences punishable under Sections 323, 498-A and 506 read with 34 of the Indian Penal Code (in short 'IPC') and Sections 3 and 4 of the Dowry Prohibition Act.

3. The case of prosecution in brief is that the marriage of informant was solemnized on 30.01.2015 with [REDACTED], village-Phulhipad, P.S.-Sirsa Meja, District-Pryagraj with Hindu Rituals. It is further alleged that the husband of the informant is an I.I.T. Engineer with Ph.D. and demanded more dowry and informant/O.P. No.2 stated that she has given Rs. 20 lakhs in cash. It is further alleged that the husband of informant was appointed as Assistant Professor in mechanical department and residing in Q. No.5112. It is further alleged that there is a demand of Rs.15 lakhs and one Creta car. It is further alleged that [REDACTED] abused and beaten the informant. It is further alleged that when she went to I.I.T. campus at Jodhpur with her father and mother, the husband said her to go back with her father and mother. After some time, the husband of informant came back on



28/29.03.2022 to Banaras with his brother for B.Ed. Exam. It is further alleged that the husband of informant abused and forbidden the informant to come at Jodhpur.

4. It is submitted by learned counsel appearing for the petitioners that the petitioner no.1 is a married sister admittedly living separately, whereas petitioner no.2 is brother-in-law of O.P. No.2, who is also living separately. It is pointed out that that allegation *qua* physical assault/cruelty as committed upon O.P. No.2 appears very much general and omnibus against both above-named petitioners. The face of FIR suggest thrust of allegation available against the husband of O.P. No.2, who is not the petitioner for the present. While concluding argument, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Abhishek vs. State of Madhya Pradesh** reported in **2023 SCC Online SC 1083** and submitted that the petitioners were implicated only out of their relations with husband of O.P. No.2, with harassing attitude.

5. Learned counsel appearing for O.P. No.2 submitted that the allegation *qua* cruelty is also available



against petitioners. It is submitted that different enquiry witnesses have also supported the allegation during the course of enquiry.

6. It would be apposite to reproduce para-13, 14, 15, 16 and 17 the legal report of Hon'ble Supreme Court as available through **Abhishek case** (supra), which 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 the 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.

**17.** In *State of Haryana v. Bhajan Lal*, [1992 Supp (1) SCC 335], this Court had set out, by way of illustration, the broad categories of cases in which the inherent power under Section 482 Cr. P.C. could be exercised. Para 102 of the decision reads as follows:

“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 give 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 Act concerned (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 Act concerned, 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.”

7. It would also be apposite to reproduce the FIR of Durgawati P.S. Case No.113 of 2022 for the sake of better understanding of the case, which is as under:-

“सेवा में,

थानाध्यक्ष महोदय

दुर्गावती थाना

विषय:- प्राथमिकी दर्ज कर यथाशिघ्र उचित कानूनी कार्रवाई हेतु।

महाशय,

मैं मोनिका उर्फ मोनिका कुमारी पति-चन्दन पाण्डेय ससुराल घर ग्राम-फुलहीपढ़, पोस्ट-बिजौरा थाना-सिरसामेजा, जनपद प्रयागराज उत्तर प्रदेश वर्तमान मायका घर द्वारा संतोष तिवारी ग्राम-धनेछा पोस्ट+थाना-दुर्गावती, जिला-कैमूर विनम्रतापूर्वक सूचित करती हूँ कि मेरी शादी चंदन पाण्डेय पिता-जयशंकर पाण्डेय निवासी, ग्राम फुलहीपद, थाना-सिरसामेजा, जनपद प्रयागराज उत्तर प्रदेश के साथ दिनांक -30.01.2015 को हिन्दु रिति रिवाज से सम्पन्न हुआ और मैं विदा होकर पति के साथ पति के घर गई और पति के सहवास में रहने लगी। कुछ दिनों तक छोटी-मोटी ताना और नौक-झोंक के अलावा प्रेम और सम्मान से रही और मायका ससुराल आना-जाना हुआ, ससुर देवन ननद और पति मेरे मायका घर छेनेछा भी आये और यह बोलकर कि लड़का आई.आई.टी. में इंजिनियरिंग पी.एच.डी. कर लिया जिसको दहेज तुम्हारा पिता बहुत कम दिया है और सामान भी साधारण दे दिया है जो चंदन पाण्डेय के स्टेटस के लिए बहुत कम है। मेरे माता-पिता और भाई ने कहा कि वह दहेज तो दिये नहीं बल्कि बेटी को उपहार करीब 20 लाख का नगदी और सामान बेटी को स्त्रीधन आभूषण सहित दे चुके हैं। फिर मेरे पति चंदन पाण्डेय की नौकरी



मोदीनगर गाजीयाबाद और अब सरकारी आई. आई. टी.इन्जिनियरिंग कॉलेज जोधपुर राजस्थान में असिस्टेंट प्रोफेसर मैकेनिकल विभाग में हो गया है। जिनका क्वार्टर नं०-5112 बी टाईप कैम्पस के अंदर ही है जो नगद पन्द्रह लाख रुपया और क्रेटा कार मांग कर रहे हैं माता-पिता नहीं देने में असमर्थता जाहिर किये मेरे ससुर जयशंकर पाण्डेय उपरोक्त नगदी और समान की मांग पूरा नहीं होने पर मुझे अपने घर में और बेटा के साथ रहने से मना कर देते हैं देवर सूरज पाण्डेय उर्फ गोलू पाण्डेय अपने पिता और भाई की तरह आये दिन मुझे मारता-पिटता और गंदी गाली देता है। पति गाली देकर मुझे बोलते हैं उनके पास अच्छी-अच्छी लड़कियों और काफी रुपया देने वाले शादी का प्रस्ताव लेकर आ रहे हैं और तुम अब उसके स्टैंडर में नहीं हो मैं अपने पिता और भाई माता के साथ जोधपुर आई. आई.टी. कैम्पस पति के आवास पर चली गई थी तो माता पिता को मेरा पति तुरंत वापस कर दिये और मुझे कहें कि बनाओ खाओ और मैं पति सुख से वंचित पड़ी रही तथा मुझे जान से मारने का प्रयास किये दिनांक-28/29.03.2022 को अपने बी.एड. परीक्षा देकर जोधपुर पति के पास जाने की इच्छा व्यक्त की तो पति मोबाईल पर मुझे गाली देकर हत्या करने की धमकी देते हुए जोधपुर अपने पास आने से मना करते हैं दिनांक-03.05.2022 को मेरे पैतृक मायका घर धनेच्छा थाना-दुर्गावती ससुर जय शंकर पाण्डेय बोल गये हैं कि मुझे वे लोग नहीं रखेंगे और वे लोग अपने बेटा चंदन पाण्डेय की दूसरी शादी कर बहुत रुपया पायेंगे और मेरे स्त्रीधन जो ससुर के अभिरक्षा में सुरक्षा के लिए मैं रखी हूँ उसे भी वापस करने से वे लोग मना कर दिये हैं ऐसे में मैं पति ससुर और देवर एवं ननद प्रतिमा पाण्डेय उर्फ सोनिया पाण्डेय द्वारा मानसिक एवं शारीरिक रूप से काफी प्रताड़ित की गई हूँ और की जा रही हूँ तथा वे लोग दहेज मांगने के बहाने मुझे छोड़ने पर उतारू हो गए हैं और मेरे स्त्रीधन को रखकर आपराधिक न्यास भंग किये हैं।

अतः श्रीमान् से प्रार्थना है कि उचित कानूनी

कार्रवाई करने की कृपा किया जाय।

प्रार्थी

मोनिता”

8. In view of aforesaid factual and legal submissions, as the petitioners are in-laws, living separately and facing general and omnibus allegation *qua* alleged cruelty as said to be committed upon O.P. No.2, therefore, by taking guiding note of **Abhishek case** (supra), the cognizance order dated 22.03.2023 as passed by learned S.D.J.M., Mohania,



Kaimur in connection with Durgawati P.S. Case No.113 of 2022 with all its consequential proceedings *qua* both above-named petitioners is hereby quashed/set aside.

9. The present application stands allowed. Pending petition(s), if any, stands disposed of.

10. Let a copy of this order be sent to the learned trial court forthwith.

**(Chandra Shekhar Jha, J.)**

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25-06-2025
Transmission Date	25-06-2025

