

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35467 of 2024

Arising Out of PS. Case No.-1 Year-2021 Thana- MAHILA P.S. District- Patna

1. Rani Devi, Wife of Pappu Kumar, House No. 19, Adrigali, In front of A.N. College, P.S.- S.K. Puri, District- Patna, At present House No. 62, East Boring Canal Road, P.S.- Budha Colony, District- Patna.
2. Pappu Kumar Son Of Late Sripati Prasad, House No. 19, Adrigali, In front of A.N. College, P.S.- S.K. Puri, District- Patna, At present House No. 62, East Boring Canal Road, P.S.- Budha Colony, District- Patna.
3. Deepak Kumar Son Of Late Sripati Prasad, House No. 19, Adrigali, In front of A.N. College, P.S.- S.K. Puri, District- Patna, At present House No. 62, East Boring Canal Road, P.S.- Budha Colony, District- Patna.

... .. Petitioners

Versus

1. The State of Bihar
2. Switi Kumari Daughter Of Ajay Kumar , Wife Of Guddu Kumar Resident Of Nawada Purvi Tola , P.S.- Phulwari , Dist- Patna

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Prem Kumar, Advocate
For the O.P. No.2 : Mr.Shrawan Kumar, Advocate
For the Opposite Party/s : Mr.Ajay Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 18-06-2025

Heard learned counsel for the petitioners and Mr. Shrawan Kumar, learned counsel for the opposite party no. 2 and also learned A.P.P. for the State.

2. This application has been preferred under section 482 of the Code of Criminal Procedure (in short, the ‘Cr.P.C.’) for quashing the order dated 04.08.2021, as passed by learned S.D.J.M., Patna in Mahila P.S. Case No. 01 of 2021 (G.R. No. 155 of 2021), whereby and whereunder learned



Magistrate took cognizance for the offences punishable under Sections 498(A)/504/506/34 of the I.P.C. and section $\frac{3}{4}$ of the Dowry Prohibition Act against the petitioners and other accused persons.

3. The brief facts of the case of the prosecution is that marriage of opposite party no. 2 was performed with one Guddu Kumar on 22.02.2019, but she was tortured for non-fulfillment of demand of dowry and motorcycle. O.P. No. 2 alleged that she was blessed with one female child. It is alleged that after making pressure by her parental family, her husband arranged a rental house where mother-in-law was also residing for caring her new born baby. In the meantime, family members of husband of the O.P. No. 2 started making pressure to bring Rs. five lakhs from her parents and also taken signature of the O.P. No. 2/informant on 8-10 blank papers. The informant further alleged that her husband did not keep her in in-laws house.

4. On the basis of aforesaid written information of the informant/O.P. No. 2, the present F.I.R. being Mahila P.S. Case No. 01 of 2021 has been registered for the offences



punishable under sections 498(A)/504/506/34 of the I.P.C. and section 3/4 of the Dowry Prohibition Act.

5. It is submitted by learned counsel appearing for the petitioners that petitioners are in-laws of opposite party no. 2 and living separately with the husband of opposite party no. 2 prior to this occurrence.

6. It is further pointed that the root cause for lodging the present F.I.R. is filing of divorce case by the husband of opposite party no. 2 in the year 2020 itself. It is also submitted that all petitioners are facing general and omnibus allegation *qua* alleged cruelty as committed upon opposite party no. 2, and even the date of occurrence not appears specified for alleged cruelty. It is further submitted that even the local ward member has endorsed through Annexure P/4 that petitioners are living separately prior to the occurrence.

7. In view of aforesaid, implication of the petitioners with the present case is only for the reason that they are relatives/family members of the husband of opposite party no. 2. 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**.

8. Mr. Shrawan Kumar, learned counsel appearing for the opposite party no. 2, while opposing the petition, submitted that the allegation *qua* raising demand of dowry for purchasing motorcycle and also for cash of Rs. 5 Lakhs to start business appears available against petitioner no. 2 namely, Pappu Kumar, who is elder brother-in-law of opposite party no. 2. It is also submitted that petitioners along with husband of opposite party no. 2 did not allow opposite party no. 2 to enter into her matrimonial house on 19.09.2020, and since then she is living with her parents.

9. It would be apposite to reproduce para-13, 14, 15, 16 and 17 of the legal report of Hon'ble Supreme Court passed in the case of **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 vs. 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’.”



10. In view of aforesaid factual and legal submission and by taking note of the fact as petitioners are in-laws of opposite party no. 2, who are facing general and omnibus allegation *qua* alleged cruelty as committed upon opposite party no. 2, who appears *prima facie* living separately prior to the occurrence, accordingly, by taking reference of **Abhishek case (supra)**, the impugned cognizance order dated 04.08.2021 as passed in Mahila P.S. Case No. 01 of 2021 (G.R. No. 155 of 2021) by learned S.D.J.M., Patna, is hereby quashed/set aside *qua* above-named petitioners with all consequential proceedings, if any.

11. Accordingly, this application stands allowed.

12. Let a copy of this order be sent to the court concerned immediately.

(Chandra Shekhar Jha, J)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.06.2025
Transmission Date	18.06.2025

