

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.33679 of 2016

Arising Out of PS. Case No.-2 Year-2014 Thana- MAHILA THANA District- Begusarai

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1. Brajesh Kumar @ Brajesh Kumar Singh Son of Sri Bhagwan Das Singh.
2. Bhagwan Das Singh. Son of Late Rajendra Prasad Singh.
3. Ramakant Singh, Son of Late Rajendra Prasad Singh.
4. Kuna Devi @ Kunna Devi @ Kunni Devi W/o Bhagwan Das Singh
5. Sarvesh Kumar @ Abhishek Kumar S/o Bhagwan Das Singh All resident of Village- Berhna, P.S. Barh, District- Patna.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Lovely Kumari D/o Ravindra Prasad Singh, resident of Village- Mungeriganj, Ward No. 32 ,P.S. Nagar, Begusarai, District- Begusarai.

... .. Opposite Party/s

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Code of Criminal Procedure, 1973—Section 482—Quashing—of FIR—petitioners' are in-laws claiming to live separately having no connection with daily and domestic affairs with O.P. No. 2 and her husband—where allegation of cruelty and demand of dowry appears very much general and omnibus against petitioners'—where thrust of allegation as to commit cruelty and raise demand of dowry mainly appears against husband of O.P. No. 2—impugned order of cognizance with all its consequential proceedings quashed and set aside except her husband, whose application was withdrawn. **(Para 12)**

2023 SCC Online SC 1083—**Relied Upon.**

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Appearance :		
For the Petitioner/s	:	Mr. Deepak Kumar Sinha, Advocate
	:	Ms. Sukanya Bharti, Advocate
	:	Mr. Vijay Chandra Rai, Advocate
For the Opposite Party/s	:	Mr. Pramod Kumar Pandey, APP
For the O.P. No. 2	:	Mr. Ranjan Kumar Dubey, Advocate
	:	Mr. Kumar Gaurav, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 22-04-2024

After short argument, learned counsel appearing on behalf of petitioners seeks permission to withdraw present application for petitioner no. 1, namely, Brajesh Kumar @ Brajesh Kumar Singh, who is husband of O.P. No. 2, namely, Lovely Kumari.

2. Request allowed.



3. Accordingly, application for petitioner no. 1, namely, Brajesh Kumar @ Brajesh Kumar Singh stands dismissed as withdrawn.

4. Now, the present application survives for petitioner no. 2 Bhagwan Das Singh, petitioner no. 3 Ramakant Singh, petitioner no. 4 Kuna Devi @ Kunna Devi @ Kunni Devi , and petitioner no. 5 Sarvesh Kumar @ Abhishek Kumar.

5. The present quashing petition has been preferred to quash the order dated 18.10.2014 passed in Begusarai Mahila P.S. Case No. 02 of 2014, where learned Sub-Divisional Judicial Magistrate, Begusarai took cognizance for the offences punishable under Sections 448, 323, 379, 498-A, 504 and 506/34 of the Indian Penal Code (in short IPC) and Section 3/4 of the Dowry Prohibition Act against the petitioners, whereafter investigation charge-sheet was submitted under aforesaid sections.

6. Opposite Party No. 2 is duly represented.



7. The brief facts of the case as speaks through *fardbeyan* of the informant/O.P. No. 2 namely Lovely Kumari, that her marriage solemnized on 09.05.2007 with one Brajesh Kumar Singh, resident of village – Berhna Barh, Patna. Father of informant gifted Rs. 5,50,000/- cash as well as ornaments, clothes, motorcyle etc. It is further alleged that informant was tortured by the husband, brother-in-law as well as uncle of husband for non-fulfilling of the demand of Rs. 5,00,000/- continuously. Informant have one son and one daughter from the wed-lock. It is also alleged that on 29.12.2013 husband, father-in-law and four to five other persons came to her matrimonial house and forcibly tried to take informant/O.P. No. 2 to her in-laws house, but said attempt was aborted by nearby people.

8. Learned counsel appearing on behalf of the petitioners submitted that allegations against petitioners are very much general and omnibus as only being family members/relatives of husband of O.P. No.



2. It is submitted that O.P. No. 2 on her own went to her parental home and when on one such occasion petitioners went to the parental home of O.P. No. 2 as to bring her back to the matrimonial home, false implications were raised through present FIR. It is further submitted that petitioners are in-laws and living separately having no connection with the daily and domestic affairs of O.P. No. 2 and her husband. It is also pointed out that allegation as to raise demand of dowry, appears superficial in nature, *qua*, petitioners.

9. While travelling over the argument learned counsel relied upon the report of Hon'ble Supreme Court in the case of **Abhishek Vs. State of Madhya Pradesh** as reported in **2023 SCC OnLine SC 1083**.

10. Learned APP duly assisted by learned counsel appearing on behalf of the O.P. No. 2, while opposing the application submitted that petitioners are in-laws and are living in the same house. It is further submitted that petitioner no. 2 & petitioner no. 4 are



parents of husband of O.P. No. 2 and therefore they are playing a vital role during the course of occurrence as to commit cruelty upon O.P. No. 2. It is also submitted that allegation for raising dowry demand is also available against petitioners.

11. It would be apposite to reproduce the paragraph no(s). 12, 13, 14, 15, 16 and 17 of

Abhishek Case (supra) which reads as under:

"**12.** The contours of the power to quash criminal proceedings under Section 482 Cr. P.C. are well defined. In **V. Ravi Kumar v. State represented by Inspector of Police, District Crime Branch, Salem, Tamil Nadu [(2019) 14 SCC 568]**, this Court affirmed that where an accused seeks quashing of the FIR, invoking the inherent jurisdiction of the High Court, it is wholly impermissible for the High Court to enter into the factual arena to adjudge the correctness of the allegations in the complaint. In **Neeharika Infrastructure (P). Ltd. v. State of Maharashtra [Criminal Appeal No. 330 of 2021, decided on 13.04.2021]**, a 3-Judge Bench of this Court elaborately considered the scope and extent of the power under Section 482 Cr. P.C. It was observed that the power of quashing should be exercised sparingly, with circumspection and in the rarest of rare cases, such



standard not being confused with the norm formulated in the context of the death penalty. It was further observed that while examining the FIR/complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made therein, but if the Court thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, and more particularly, the parameters laid down by this Court in **R.P. Kapur v. State of Punjab (AIR 1960 SC 866)** and **State of Haryana v. Bhajan Lal [(1992) Supp (1) SCC 335]**, the Court would have jurisdiction to quash the FIR/complaint.

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 **Bhajan Lal (supra)**, 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.'

12. In view of aforesaid factual and legal discussions, where petitioners are in-laws claiming to live separately having no connection with the daily and domestic affairs with O.P. No. 2 and her husband, where allegation of cruelty and demand of dowry appears very much general and omnibus against petitioners, where thrust of allegation as to commit cruelty and raise demand of dowry mainly appears against husband of O.P. No. 2. Accordingly, by taking note of guidelines as mentioned in para nos. no(s). 12, 13, 14, 15, 16 and 17 of **Abhishek Case (supra)**, impugned order of cognizance dated 18.10.2014 with all its consequential proceedings, *qua*, petitioner no. 2 Bhagwan Das Singh, petitioner no. 3 Ramakant Singh, petitioner no. 4 Kuna Devi @ Kunna Devi @ Kunni Devi , and petitioner no. 5 Sarvesh Kumar @ Abhishek Kumar arising thereof as passed in Begusarai Mahila P.S. Case No. 02 of 2014, pending before learned Sub-Divisional Judicial



Magistrate, Begusarai is hereby quashed and set aside.

13. The application stands allowed.

14. Let a copy of this judgment be sent to
learned Trial Court, immediately.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	24.04.2024
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