

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**CRIMINAL MISCELLANEOUS No.39100 of 2015**

Arising Out of PS. Case No.-133 Year-2013 Thana- SHRIKRISHNAPURI District- Patna

=====

Ritu Raj, Son of Dr. Uday Pratap Narain Singh, Resident of 2M/77 Bahadurpur Housing Colony, Mahatma Gandhi Nagar, P.S. - Bahadurpur, District - Patna.

... .. Petitioner/s

Versus

1. State of Bihar
2. Nilu Kumari, Wife of Ritu Raj, D/o Navlesh Sharma, Resident of West Anand Puri, H. NO. 13E/11, P.S. - Srikrishnapuri, District- Patna.

... .. Opposite Party/s

=====

*Acts/Sections/Rules:*

- *Section 482 of the Code of Criminal Procedure*
- *Sections 341, 323, 504, 498A and 506/34 of the Indian Penal Code*
- *Section 13 of the Hindu Marriage Act*

*Cases referred:*

- *Achin Gupta vs. State of Haryana & Anr. passed in Supreme Court Criminal Appeal No. 2379 of 2024*
- *Neelu Chopra & Anr. vs. Bharti passed in Supreme Court Criminal Appeal No. 949 of 2003*
- *Mahmood Ali & Ors. vs. State of U.P. & Ors. passed in Supreme Court Criminal Appeal No. 2341 of 2023*
- *Salib @ Shalu @ Salim vs. State of U.P. & Ors. passed in Supreme Court Criminal Appeal No. 2344 of 2023*
- *Abhishek vs. State of Madhya Pradesh passed in Supreme Court Criminal Appeal No. 1457 of 2015*

*Petition - filed challenging the order by which the cognizance of the offences under Sections 341, 323, 504, 498A and 506/34 of the Indian Penal Code has been taken against the petitioner.*

*Held - Regarding the said alleged incident there is contradiction in between the petitioner's story and the informant's story but it is a subject matter of trial. (Para 6)*

*During the course of investigation, the informant remained firm to her main allegations and her family members also supported her allegations. (Para 6)*

*Court finds no strong reason on the part of the informant to lodge a false case against her husband after having spent three years in his company and giving birth to a child while on the other hand, the petitioner might have a reason to get rid of the informant on account of her serious disease Hepatitis-B. (Para 6)*

*Though, the petitioner had filed his divorce case prior to the registration of the FIR of the present matter but merely by this fact, it cannot be presumed that the informant lodged her case with malafide intention and having revengeful attitude. Though the petitioner's sisters have been exonerated by the police but on different ground as they are stated to be the married sisters of the petitioner and after examining some witnesses, the investigating officer found the petitioner's sisters residing in their sasural during the relevant period of time, however, in view of the specific allegation levelled against the petitioner by the informant with regard to cruelty as discussed above the allegations levelled against the petitioner cannot be treated equal to the allegations levelled against the petitioner's sisters. (Para 6)*

*Allegations levelled by the informant in her FIR are not frivolous or vexatious and this court does not find convincing materials to believe that the informant has lodged her FIR with an ulterior motive for wreaking vengeance on her husband. (Para 6)*

*One circumstance as to the informant being in injured condition when she appeared before the police for lodging her FIR also goes in favour of the prosecution. (Para 6)*

*Defences taken by the petitioner are to be examined by the trial court in respect of which a right conclusion can only be made after taking evidences from both the sides and it will not be proper to exonerate the petitioner from the allegations at the initial stage of his trial without taking evidences. (Para 6)*

*Petition is dismissed. (Para 6)*

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.39100 of 2015**

Arising Out of PS. Case No.-133 Year-2013 Thana- SHRIKRISHNAPURI District- Patna

Ritu Raj, Son of Dr. Uday Pratap Narain Singh, Resident of 2M/77 Bahadurpur Housing Colony, Mahatma Gandhi Nagar, P.S. - Bahadurpur, District - Patna.

... .. Petitioner/s

Versus

1. State of Bihar
2. Nilu Kumari, Wife of Ritu Raj, D/o Navlesh Sharma, Resident of West Anand Puri, H. NO. 13E/11, P.S. - Srikrishnapuri, District- Patna.

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s	:	Mr. Ritu Raj, Petitioner-in-Person
For the O.P. No.2	:	Mr. N.K. Agarwal, Sr. Advocate
		Mr. Gaurav Kumar, Advocate
For the State	:	Dr. Indihar Kumari, APP

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH  
CAV JUDGMENT**

**Date : 11-02-2025**

Heard Mr. Ritu Raj, the petitioner-in-person, Mr. N.K. Agarwal, learned senior counsel appearing for the informant assisted by Mr. Gaurav Kumar, advocate and Dr. Indihar Kumari, learned APP for the State.

2. The present petition has been filed under Section 482 of the Code of Criminal Procedure (in short ‘Cr.P.C.’) by the petitioner, Ritu Raj, who himself appeared and argued his own matter. The petitioner has challenged the order dated 05.07.2014 passed by the learned Judicial Magistrate, 1<sup>st</sup> Class, Patna in connection with S.K. Puri P.S. Case No. 133 of 2013 by



which the cognizance of the offences under Sections 341, 323, 504, 498A and 506/34 of the Indian Penal Code ( in short 'IPC') has been taken against the petitioner and by filing I.A. No. 01 of 2023 he has prayed for an amendment in the prayer and revealed that the trial of the petitioner has started, so, the consequent proceeding having started after the framing of charge, be also quashed along with the cognizance order.

3. The main grounds taken by the petitioner to assail the order impugned are that firstly the allegations made by the O.P. No.2, who happens his wife, in the FIR of S.K. Puri P.S. Case No. 133 of 2013 are completely false and the said FIR has been lodged by her in retaliation to the divorce case filed by the petitioner under Section 13 of the Hindu Marriage Act in the Family Court, Patna on 03.07.2012 bearing Matrimonial Case No. 489 of 2012 and an informatory petition had also been filed before the registration of the FIR of S.K. Puri P.S. Case No. 133 of 2013 in which the petitioner had shown his apprehension of possibility of false implication of the petitioner and his family members in a false case by the O.P. No.2. The petitioner submitted that the O.P. No.2, wife of the petitioner, was suffering from an incurable disease namely, Hepatitis-B, at the time of marriage which was suppressed by the O.P. No.2 and her



parental family members and as per medical science, the Hepatitis-B is an infectious disease and can transmit from one body to another by sexual relation and on account of this compelling circumstance, the petitioner had to file divorce case and after filing that case, an illicit relationship between his wife and some other person also came in his knowledge for which he has taken necessary steps in his divorce case. In the light of direction given by this Court in Cr. Misc. No. 33407 of 2013, a Medical Board was constituted to examine the health of O.P. No.2 in which it was found by the Medical Board that the O.P. No.2 was suffering from Hepatitis-B disease.

Secondly, in the entire FIR, there is no specific allegation against the petitioner and on the same set of allegations, the police exonerated some of the accused persons but chargesheeted the petitioner, his father and mother which is completely against the principle laid down by the Hon'ble Apex Court in the case of **Achin Gupta vs. State of Haryana & Anr.** passed in **Criminal Appeal No. 2379 of 2024**. It has been argued by him that as per the allegations made by O.P. No.2 in her FIR, she was physically assaulted by the petitioner and his family members but there is no any medical evidence to support the said allegation and it is very important to mention that at the



alleged time, neither the petitioner nor his father was present at the alleged place rather both were present at their posting places. He further submitted that the O.P. No.2 had also filed one more criminal case vide Gandhi Maidan P.S. Case No. 212 of 2013 dated 03.06.2013 against the petitioner's father and mother alleging therein physical assault committed by her father-in-law by using an iron rod on her head on 30.05.2013. The police investigated the Gandhi Maidan P.S. Case No. 212 of 2013 and found no evidence and consequently submitted final form in favour of petitioner's father and it was found by the police during investigation that the petitioner's father was not present at the alleged place of occurrence rather he was on his duty at Primary Health Center, Dhanarua, Patna and in this regard, the police got a certificate issued by in-charge Medical Officer of P.H.C., Dhanarua, Patna. He further submitted that the father of O.P. No.2 has recorded his evidence in the Matrimonial Case No. 489 of 2012 filed by him for dissolution of his marriage with O.P. No.2 and the statements made by the father of O.P. No.2 in his evidence are totally contradictory to the allegations made by the O.P. No. 2 in the FIR of present matter.

In support of above submissions and grounds, the



petitioner has placed reliance upon the following judgments of the Hon'ble Apex Court:

**(i). Neelu Chopra & Anr. vs. Bharti** passed in **Criminal Appeal No. 949 of 2003**, the relevant paragraph nos. 4 & 5 upon which the petitioner has placed reliance are being reproduced as under:

“ 4. We have seen the complaint very carefully. From a bare reading of the complaint it is apparent that the problem started barely after six months of the marriage. In paragraph 3 of the complaint, it is stated that all the accused came to complainant's parents house at Gidderbaha and asked her parents to give the complainant more gold and other articles as dowry otherwise they would leave the complainant there and Rajesh would be married second time. In paragraph 4, the complaint is against Rajesh in the sense that the accused Rajesh asked the complainant to hand over the ornaments and clothes to his parents lest they are lost in the way. On reaching to Delhi when the ornament were asked back by the complainant, they were not returned back. When we see the complaint as a whole it is basically against the accused Rajesh. All the allegations are against Rajesh. There is undoubtedly some reference to the present appellants, but what strikes us is that there are no particulars given as to date on which the ornaments were handed over, as to



the exact number of ornaments or their description and as to the date when the ornaments were asked back and were refused. Even the weight of the ornaments is not mentioned in the complaint and it is a general and vague complaint that the ornaments were sometime given in the custody of the appellants and they were not returned. What strikes us more is that even in paragraph 10 of the complaint where the complainant says that she asked for her clothes and ornaments which were given to the accused and they refused to give these back, the date is significantly absent. It seems from the order taking cognizance that the learned Magistrate has mentioned about the version of the complainant is supported by Bhagwati and Dharampal to the fact that the ornaments were entrusted to Krishan Saroop and Rajesh while clothes were entrusted to Rakhi and they refused to hand over the same. Even their statements could not be better than the vague complaint. Even about the clothes, the date on which they were handed over to Rakhee who happens to be the daughter of the present appellants and the other details are very significantly absent. It was also the version of the complainant that she was beaten in support of which she has filed a certificate from AIIMS hospital, New Delhi. However, in the complaint, it is not seen as to on which date she was beaten and by whom. It is significant



to note that the matter against the Rakhee, the 4th original accused has already been dropped as she was in fact not even the resident of the same house.

5. In order to lodge a proper complaint, mere mention of the sections and the language of those sections is not be all and end of the matter. 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 committing of that offence. When we see the complaint, the complaint is sadly vague. It does not show as to which accused has committed what offence and what is the exact role played by these appellants in the commission of offence. There could be said something against Rajesh, as the allegations are made against him more precisely but he is no more and has already expired. Under such circumstances, it would be an abuse of process of law to allow the prosecution to continue against the aged parents of Rajesh, the present appellants herein on the basis of vague and general complaint which is silent about the precise acts of the appellants.”

**(ii). Mahmood Ali & Ors. vs. State of U.P. & Ors.**

passed in **Criminal Appeal No. 2341 of 2023**, the relevant paragraph no. 12 upon which petitioner has placed reliance is being reproduced as under:



“ 12. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under [Section 482](#) of the Code of Criminal Procedure ([CrPC](#)) or 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 for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just 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. 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 try to read in between the lines. The Court while exercising its jurisdiction under [Section 482](#) of the CrPC or [Article 226](#) of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

**(iii). Salib @ Shalu @ Salim vs. State of U.P. & Ors.** passed in **Criminal Appeal No. 2344 of 2023**, and in the paragraph no. 26 of the judgment upon which the reliance has been placed by the petitioner, the same view taken by the Hon’ble Apex Court in the case of **Mahmood Ali (*Supra*)** was reiterated.

**(iv). Achin Gupta vs. State of Haryana & Anr.** passed in **Criminal Appeal No. 2379 of 2024**, the relevant paragraph no. 18 upon which the petitioner has placed reliance is being reproduced as under:

“ 18. The plain reading of the FIR



and the chargesheet papers indicate that the allegations levelled by the First Informant are quite vague, general and sweeping specifying no instances of criminal conduct. It is also pertinent to note that in the FIR no specific date or time of the alleged offence/offences has been disclosed. Even the police thought fit to drop the proceedings against the other members of the Appellant's family. Thus, we are of the view that the FIR lodged by the Respondent No. 2 was nothing but a counterblast to the divorce petition & also the domestic violence case."

**(v). Abhishek vs. State of Madhya Pradesh** passed in **Criminal Appeal No. 1457 of 2015**, the relevant paragraphs nos. 19, 20 and 21 upon which the petitioner has placed reliance are being reproduced as under:

" 19. The most significant aspect to be taken note of presently is that Bhawna admittedly parted ways with her matrimonial home and her in-laws in February, 2009, be it voluntarily or otherwise, but she did not choose to make a complaint against them in relation to dowry harassment till the year 2013. Surprisingly, FIR No. 56 dated 09.02.2013 records that the occurrence of the offence was from 02.07.2007 to 05.02.2013, but no allegations were made by Bhawna against the appellants after she left her matrimonial home in February, 2009. Significantly, Bhawna got



married to Nimish on 02.07.2007 at Indore and went to Mumbai with him on 08.07.2007. Her interaction with her in-laws thereafter seems to have been only during festivals and is stated to be about 3 or 4 times. Sourabh, an architect, was stationed at Delhi since the year 2007 and no specific allegation was ever made against him by Bhawna. In fact, she merely made a general allegation to the effect that he also tortured her mentally and physically for dowry. No specific instance was cited by her in that regard or as to how he subjected her to such harassment from Delhi. Similarly, Abhishek became a judicial officer 6 or 7 months after her marriage and seems to have had no occasion to be with Bhawna and Nimish at Mumbai. His exposure to her was only when she came to visit her in-laws during festivals. Surprisingly, Bhawna alleges that at the time of his own marriage, Abhishek demanded that Bhawna and her parents should provide him with a car and ₹.2 lakhs in cash. Why he would make such a demand for dowry, even if he was inclined to commit such an illegality, from his sister-in-law at the time of his own marriage is rather incongruous and difficult to comprehend. Further, the fact that Bhawna confessed to making a vicious complaint against Abhishek to the High Court clearly shows that her motives were not clean insofar as her brother-in-law, Abhishek, is concerned, and she clearly wanted to wreak vengeance



against her in-laws. The allegation levelled by Bhawna against her mother-in-law, Kusum Lata, with regard to how she taunted her when she wore a maxi is wholly insufficient to constitute cruelty in terms of [Section 498A](#) IPC.

20. We may also note that Bhawna herself claimed that Nimish came to her brother's wedding in 2012, but she has no details to offer with regard to any harassment for dowry being meted out to her by her mother-in-law and her brothers-in-law after 2009. As noted earlier, even for that period also, her allegations are mostly general and omnibus in nature, without any specific details as to how and when her brothers-in-law and mother-in-law, who lived in different cities altogether, subjected her to harassment for dowry.

21. Most damaging to Bhawna's case is the fact that she did nothing whatsoever after leaving her matrimonial home in February, 2009, and filed a complaint in the year 2013 alleging dowry harassment, just before her husband instituted divorce proceedings."

4. On the other hand, learned senior counsel appearing for the O.P. No.2 has argued that it is a settled principle of law that prosecution's case cannot be thrown out merely on account of some contradictions and so far as the



instant matter is concerned, the petitioner has pointed out the contradictions in the light of the evidence given in the divorce suit while in the present matter which is based on a police report the trial of the petitioner is going on and the material witnesses are to be examined and during investigation, sufficient evidences came out upon which reliance was placed by the investigating officer and consequently, the petitioner and other co-accused persons were chargesheeted. It has been further submitted that the petitioner's plea as to he being not present at the alleged place of occurrence, is to be examined by the trial court and the same is subject of evidence and it is not essential to give the details of the commission of an offence minutely in the FIR, so, the prosecution's case cannot be disbelieved at the initial stage merely on account of not giving some details of the alleged demands etc., however, there is specific allegation against the petitioner in the FIR and it is settled position of law that husband and in-laws cannot be treated equally mainly in view of the nature of allegation concerned to dowry demand and cruelty, though some accused persons have been exonerated by the police but on different grounds which are not applicable to the petitioner.

5. Heard both the sides and perused the FIR, case



diary and other relevant materials including the judgments of the Hon'ble Apex Court which have been referred by the petitioner.

6. The petitioner is said to be husband of the informant and their marriage took place on 06.06.2010. As per the informant, at the time of her marriage her father gave ornaments and cash amount for purchasing an Indigo Car as gifts and when she arrived at her *Sasural* after the marriage, her husband's sisters and parents took her ornaments on the pretext of keeping the same in the locker and started demanding Rs. 20,00,000/- in cash and a luxury vehicle and for this, they assaulted her and in that acts, the petitioner was also involved with his family members and as per the informant, she remained silent and bore the behavior of her in-laws for some period but when they asked her father to fulfill their demand of Rs. 20,00,000/- and vehicle with giving a threat to take back the informant if their demand would not be fulfilled after some days, her father gave them a fix deposit of Rs. 2,00,000/- but even then the behavior of the accused including the petitioner did not change and they continued to harass her in many ways and when she became pregnant, the accused including the petitioner started making pressure upon her to abort the unborn



child and reiterated their earlier demand and also threatened to kill her, if, their demand would not be fulfilled. On 03<sup>rd</sup> June, 2011 she was ousted by her father-in-law from his house when she was carrying seven months old pregnancy and she had to spend the whole night outside the house of the accused. The informant further alleged that on the occasion of Durga Puja festival she was not permitted to enter into the house by the accused and she was pushed by the accused from the stair which caused injuries to her and her son and then she returned back to her parents' house. The informant further alleged that her husband was transferred to Goa then she, her brother and mother went to her husband's posting place in the hope of resuming a happy conjugal relation with the petitioner where they met the petitioner firstly at his posting place from where they were brought by the petitioner to his residing place but thereafter, the petitioner started assaulting her in front of her mother and brother and also lodged a false case against them at the local police station with the allegation of theft and assault which were completely false and the local police rebuked the petitioner after verifying the occurrence and knowing the truth in the allegations. The informant further alleged that one day before the registration of the FIR of the present matter, in the



night, her father-in-law and two other persons came to her parental house (*naihar*) in drunken condition and started abusing her and reiterated the demand of Rs. 20,00,000/- and a vehicle and also threatened to dissolve her marriage with petitioner by giving her divorce and also assaulted her and misbehaved with her mother and during that course, put a pistol at her temple and got her signature forcefully on blank papers. From this prosecution story, petitioner's specific role in torturing the informant physically and mentally has been alleged and in this regard, the occurrence which is said to have taken place with the informant, her brother and mother in Goa allegedly committed by the petitioner is relevant. Here it is important to mention that the petitioner himself accepted in his supplementary affidavit that at his house, O.P. No.2 and her family members manhandled him on 28.06.2012 in Goa where he worked at that time. The said fact goes in favour of informant's story as to her and her parental family members having visited to Goa at the petitioner's posting place, though, regarding the said alleged incident there is contradiction in between the petitioner's story and the informant's story but it is a subject matter of trial but however, the said fact can be deemed to be in favour of the prosecution to some extent.



During the course of investigation, the informant remained firm to her main allegations and her family members also supported her allegations. The informant is an educated lady and working in a Bank on the post of Probationary Officer and in her marriage her parents spent a considerable amount of money in the marriage functions and after spending about three years with the petitioner and having begotten a child from the conjugal relationship with the petitioner she had to take the recourse of legal action by filing an FIR against the petitioner which generally does not happen unless an extreme situation is available and this Court finds no strong reason on the part of the informant to lodge a false case against her husband after having spent three years in his company and giving birth to a child while on the other hand, the petitioner might have a reason to get rid of the informant on account of her serious disease Hepatitis-B. Though, the petitioner had filed his divorce case prior to the registration of the FIR of the present matter but merely by this fact, it cannot be presumed that the informant lodged her case with malafide intention and having revengeful attitude. Though the petitioner's sisters have been exonerated by the police but on different ground as they are stated to be the married sisters of the petitioner and after examining some



witnesses, the investigating officer found the petitioner's sisters residing in their *sasural* during the relevant period of time, however, in view of the specific allegation levelled against the petitioner by the informant with regard to cruelty as discussed above the allegations levelled against the petitioner cannot be treated equal to the allegations levelled against the petitioner's sisters. Though the police submitted final form in Gandhi Maidan P.S. Case No. 212 of 2013 lodged by the informant against her father-in-law and others but as per above submission, the said matter is still *sub judice* and the case diary of the said P.S. case is also available before this Court of which paragraph no. 3 shows that there was some injuries on the body of the informant and she was referred to P.M.C.H. by the police for medical treatment, though during investigation, the police could not have gotten all the relevant papers of treatment and due to this reason as well as considering other technical aspect as to the presence of petitioner's father at his official place the police submitted final form against the prosecution deeming due to lack of evidence, but however, one circumstance as to the informant being in injured condition when she appeared before the police for lodging her FIR also goes in favour of the prosecution to some extent in the present matter also. In view of



these discussed facts and circumstances, this Court finds that the allegations levelled by the informant in her FIR are not frivolous or vexatious and this court does not find convincing materials to believe that the informant has lodged her FIR with an ulterior motive for wreaking vengeance on her husband and the facts and circumstances of this matter are entirely different from the cited cases and the above principles laid down by the Hon’ble Apex Court in the above referred judgments do not help the petitioner on account of his case being entirely different in context of the prosecution story. Furthermore, the defences taken by the petitioner are to be examined by the trial court in respect of which a right conclusion can only be made after taking evidences from both the sides and in my opinion, it will not be proper to exonerate the petitioner from the allegations at the initial stage of his trial without taking evidences. As such, this Court finds no merit in this petition and the order impugned has been rightly passed, hence, the instant criminal miscellaneous petition stands dismissed.

(Shailendra Singh, J)

maynaz/-

AFR/NAFR	AFR
CAV DATE	28.01.2025
Uploading Date	11.02.2025
Transmission Date	11.02.2025

