

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32624 of 2018

Arising Out of PS. Case No.-283 Year-2016 Thana- SHASTRINAGAR District- Patna

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1. Dhananjai Jha, Son of Late Baldeo Jha,
 2. Nilima Jha, Wife of Dhananjai Jha, Both Resident of Flat No. 203, Veena Shree Apartment, New Punaichak, P.S.- Shastrinagar, District- Patna-800023.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Tanushree Sandilya Jha, Ex-Wife of Avinash Jha, Daughter of Amarnath Mishra, Resident of 203, Dhaneshwar Heritage, Priya Darshi Nagar, P.S.-Rupaspur, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rama Kant Sharma, Sr. Advocate Mr. Rajesh Kumar, Advocate
For the State	:	Mr. Ashok Kumar, A.P.P.
For the O.P. No.2	:	Mr. Kripa Nand Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
C.A.V. JUDGMENT

Date : 10-02-2026

1. Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel for the Opposite Party No.2 (O.P. No.2).

2. The present application has been filed on behalf of the petitioners for quashing of the order dated 23.04.2018 passed in Shastrinagar P.S. Case No.283 of 2016 by the learned Sub-Judge IV-cum-A.C.J.M., Patna (hereinafter referred to as ‘Magistrate’) wherein cognizance for offences under Sections 498A and 34 of the Indian Penal Code, 1860 and under Sections 3 & 4 of the Dowry Prohibition Act, 1961 has been taken against the petitioners who are in-laws of the informant (O.P.



No.2) and also against her husband.

3. The prosecution story, in brief, is that the marriage between O.P. No.2 and Avinash Jha (co-accused), son of the petitioners, was solemnized on 10.12.2006 at Patna as per Hindu rites and rituals with the consent of both families. At the time of marriage, O.P. No.2 was employed in Japan, whereas her husband was employed in a company at Sweden. It is stated that after marriage, she was subjected to mental and physical cruelty on account of demand for dowry, including a luxury car and an apartment at Delhi, and was humiliated and assaulted by her husband and in-laws (petitioners herein). Further allegations have been made that substantial articles were given by her parental family, including gold, silver, cash, furniture, utensils, clothes, and household articles at the time of her marriage and on the birth of their daughter on 16.04.2010 in Sweden, but her *streedhan* was neither returned nor accounted for. It is also alleged that during her stay abroad and in India, she was compelled to transfer her salary to the accounts of her father-in-law and was subjected to repeated acts of harassment and assault. Allegations of forcible extraction of money, snatching of ATM cards by her father-in-law and cheque books, and unauthorized withdrawal of funds have also been made. The



O.P. No.2 has further alleged that she was subjected to cruelty during her pregnancies, including pressure for sex determination tests and attempts to compel her to abort the female foetus. It is stated that she gave birth to her second daughter on 15.05.2015 in Sweden, and continued to face ill-treatment from her husband and in-laws. In between 2006 to 2014, O.P. No.2 had handled everything alone, from her office works to household works and her husband had merely focused on his career. Allegations have also been made regarding deception in obtaining her signatures on documents written in a foreign language, which resulted into dissolution of her marriage with Avinash Jha (co-accused) *vide* judgment dated 29.08.2014 passed by the *Gävle District Court* in Sweden, without her informed consent. It has been alleged that on 20.06.2016, when the O.P. No.2 went to her matrimonial home at Patna along with her father and some relatives to demand return of her jewellery and belongings, she was threatened with dire consequences. On the basis of these allegations, O.P. No.2 lodged a written report on 20.06.2016 before the In-charge of Shastrinagar Police Station alleging cruelty and dowry-related harassment by her husband and in-laws. On the basis of the said written report, Shastrinagar P.S. Case No. 283 of 2016 dated 20.06.2016 was registered under



Section 498A of the Indian Penal Code and Sections 3 & 4 of the Dowry Prohibition Act, where after the investigation, the police submitted charge-sheet on 31.01.2018 bearing C.S. No.25 of 2018.

4. After perusal of the materials collected during the course of investigation, the learned Magistrate, *vide* impugned order dated 23.04.2018, took cognizance for the offences punishable under Sections 498A & 34 of the Indian Penal Code, and under Sections 3 & 4 of the Dowry Prohibition Act against the three accused persons, namely, Avinash Jha, Dhananjai Jha (petitioner no.1) and Nilima Jha (petitioner no.2). Petitioners, being aggrieved by the said order of cognizance against them, have preferred this application praying to quash the impugned order dated 23.04.2018 passed against them. This Court *vide* order dated 12.10.2018 stayed the further proceedings in the case as regards petitioner nos.1 & 2.

5. Learned counsel for the petitioners assailed the impugned order of cognizance passed by the learned Magistrate and submitted that on bare perusal of the F.I.R. it is explicit that the marriage between O.P. No.2 and Avinash Jha (son of petitioners) was solemnized on 10.12.2006 and they were living separately in different foreign countries, both professionally



employed and earning a substantial income. O.P. No.2 is presently residing in Japan. It is submitted that the matrimonial discord arose out of personal differences between the couple during their stay abroad, culminating in dissolution of marriage by a decree of divorce dated 29.08.2014 passed by a competent court in Sweden with the consent of both parties, without the involvement or knowledge of the petitioners. It is further submitted that the petitioners, being aged parents, were not residing with the couple except for a brief period when they visited India during vacation and had no occasion to interfere in their conjugal life. Also, the divorce between the couple was granted in 2014 and the F.I.R. was lodged by the O.P. No.2 in 2016 just to oppress and vex the petitioners.

6. Learned counsel for the petitioners further submitted that there is no material indicating involvement of the petitioners in any alleged act of cruelty or dowry demand and that even foreign proceedings revealed serious disputes only between the spouses, resulting in custody of the minor first child being granted to the son of the petitioners. It is submitted that the couple were earning handsome salaries while working in reputed companies in foreign country, where they had their own house and were blessed with two children. However, due to



matrimonial discord, O.P. No.2 has unnecessarily dragged the petitioners into the said dispute, despite there being no fault attributable to them. The petitioners had no role, or influence whatsoever in the matrimonial life of O.P. No.2 and their son. Thus, no *prima facie* case is made out against the petitioners, who are at an advanced stage of their lives. It is further submitted that the criminal case has been instituted as a counterblast to an earlier F.I.R. lodged by petitioner no.2 arising out of an incident at the petitioners' residence and is nothing but an abuse of the process of law.

7. Learned counsel, moreover, submitted that both the petitioners are aged about 75 years, and due to subsisting poor health, they have shifted to and residing at Greater Noida for their treatment at AIIMS, New Delhi for more than last 5 years. It is submitted that the petitioner no.2 has been diagnosed with carcinoma and is totally bedridden. Learned counsel further submitted that both the petitioners have falsely been implicated with ulterior motive based on concocted and frivolous story by the O.P. No.2.

8. Learned counsel has put his reliance on various judgments of the Hon'ble Supreme Court including *Arnesh Kumar v. State of Bihar and Anr.*, reported in (2014) 8 SCC



273; K. Subba Rao and Ors. v. State of Telangana and Ors., reported in *(2018) 14 SCC 452*; and *Rajesh Sharma and Ors. v. State of Uttar Pradesh and Anr.*, reported in *(2018) 10 SCC 472* wherein it has been observed that owing to the surge in matrimonial disputes in recent times, the instances of false implication have markedly increased and courts must exercise due circumspection while proceeding against relatives specially when the allegations are omnibus. It is, lastly, submitted that the ingredients of Section 498A of Indian Penal Code and Section 3 & 4 of the Dowry Prohibition Act, in no instance, can be found, thus, the impugned order against the petitioners be quashed to prevent the abuse of the process of court and for the ends of justice.

9. Per contra, learned counsel for O.P. No.2 submitted that the allegations made in the F.I.R. disclose a continuous course of conduct amounting to cruelty and dowry related harassment, beginning soon after the marriage and extending over several years, both in India and abroad. Learned counsel further submitted that the petitioners have provoked and instigated the co-accused to torture and assault the O.P. No.2. It is submitted that substantial dowry articles, including gold, silver, cash, household goods were given at the time of birth of



their maiden child, but neither the *streedhan* was returned nor they were accounted for. Learned counsel further submitted that mere residence of spouses abroad does not absolve the petitioners from their liability, particularly when specific allegations have been made against them. It is submitted that the alleged divorce was cunningly obtained in a foreign nation while the O.P. No.2 was residing with her husband/co-accused under the same roof, however, O.P. No.2 has filed a Matrimonial Suit No.884 of 2017 for declaring the divorce obtained in foreign nation to nullity and now, the said issue is pending before this Court in appeal in a separate proceeding which is not required to be dealt within this proceeding. It is further submitted that the decree of divorce obtained in the foreign country can neither, by itself, nullify the criminal liability arising out of the offences committed by the petitioners during the subsistence of marriage, nor can it be used as a ground to stifle legitimate prosecution at the threshold. It is submitted that at the time of taking cognizance, the learned Magistrate is only to see that *prima facie* case is made out or not against the petitioners. It is, lastly submitted that the impugned order is just and proper, and the present petition seeking quashing of the impugned order is liable to be dismissed.



10. Learned A.P.P. for the State supported the impugned order and submitted that the F.I.R., read as a whole *prima facie* discloses commission of cognizable offence under Sections 498A of Indian Penal Code and Sections 3 & 4 of Dowry Prohibition Act. It is submitted that the investigation has culminated in submission of charge-sheet against the petitioners and, therefore, learned Magistrate was justified in taking cognizance of the offences. Moreover, it is submitted that at the stage of quashing, the Court is not required to appreciate evidence or adjudicate upon disputed question of facts, and the same may be left open to be decided during trial. Therefore, the impugned order warrants no interference by this Court.

11. Having heard the learned counsel for petitioners, learned counsel for the O.P. No.2 as well as the learned A.P.P. appearing for the State, and upon perusal of the materials available on record it is not controverted that the O.P. No.2 was married to Avinash Jha (son of the petitioners) on 10.12.2006 and they were living apart in different countries due to their professional employment. In the meantime, the couple was granted divorce *vide* judgment dated 29.08.2014 passed by the *Gävle District Court* in Sweden with their mutual consent. However, the validity of the said judgment of divorce is under



challenge in a separate proceeding. On written complaint of the O.P. No.2, F.I.R. against the petitioners and their son Avinash Jha was registered on 20.06.2016 alleging offences punishable under Section 498A of the Indian Penal Code and under Sections 3 & 4 of the Dowry Prohibition Act.

12. It is pertinent to note that the court owes a duty to subject the allegations levelled in the complaint to a thorough scrutiny to find out, *prima facie*, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal charge, more particularly when a prosecution arises from a matrimonial dispute.

13. The Hon'ble Supreme Court, time and again, has also made the stance very clear with respect to the criminal allegations arising out of matrimonial discords. The Hon'ble Apex Court in ***Preeti Gupta v. State of Jharkhand***, reported in **(2010) 7 SCC 667** has observed as under:

“32. It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious



concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. 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. The allegations of harassment of husband's



close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection.”

(emphasis supplied)

14. The Hon’ble Supreme Court in **Geeta Mehrotra and Anr. v. State of Uttar Pradesh and Anr.**, reported in **(2012) 10 SCC 741** has observed as under:

“20. Coming to the facts of this case, when the contents of the FIR are perused, it is apparent that there are no allegations against Kumari Geeta Mehrotra and Ramji Mehrotra except casual reference of their names which have been included in the FIR but mere casual reference of the names of the family members in a matrimonial dispute without allegation of active involvement in the matter would not justify taking cognizance against them overlooking the fact borne out of experience that there is a tendency to involve the entire family members of the household in the domestic quarrel taking place in a matrimonial dispute specially if it happens soon after the wedding.

21. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao v. L.H.V. Prasad [G.V. Rao v. L.H.V. Prasad, (2000) 3 SCC 693 : 2000 SCC (Cri) 733] wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed



*therein with which we entirely agree that :
(SCC p. 698, para 12)*

‘12. There has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their “young” days in chasing their “cases” in different courts.’

The view taken by the Judges in this matter was that the courts would not encourage such disputes.”

15. Moreover, while taking note of the phenomenal increase in matrimonial disputes in the recent years, the Hon’ble Supreme Court in ***Arnesh Kumar (supra)*** has observed as under:

“4. There is phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A IPC was



introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A IPC is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In quite a number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested. "Crime in India 2012 Statistics" published by the National Crime Records Bureau, Ministry of Home Affairs shows arrest of 1,97,762 persons all over India during the year 2012 for the offence under Section 498-A IPC, 9.4% more than the year 2011. Nearly a quarter of those arrested under this provision in 2012 were women i.e. 47,951 which depicts that mothers and sisters of the husbands were liberally included in their arrest net. Its share is 6% out of the total persons arrested under the crimes committed under Penal Code, 1860. It accounts for 4.5% of total crimes committed under different sections of the Penal Code, more than any other crimes excepting theft and hurt. The rate of charge-sheeting in cases under Section 498-A IPC is as high as 93.6%, while the conviction rate is only 15%, which is lowest across all heads. As many as 3,72,706 cases are pending trial of which on current estimate, nearly 3,17,000 are likely to result in acquittal."

16. The Hon'ble Supreme Court in *K. Subba Rao*

(supra) has observed in para 6 as under:

"6. Criminal proceedings are not normally interdicted by us at the interlocutory stage



unless there is an abuse of the process of a court. This Court, at the same time, does not hesitate to interfere to secure the ends of justice. See State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] . The courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out. See Kans Raj v. State of Punjab [Kans Raj v. State of Punjab, (2000) 5 SCC 207 : 2000 SCC (Cri) 935] and Kailash Chandra Agrawal v. State of U.P. [Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551 : (2015) 3 SCC (Cri) 536].”

17. Relying on the aforesaid judgments, the Hon’ble Supreme Court in ***Achin Gupta v. State of Haryana and Anr.***, reported in **(2025) 3 SCC 756** has observed as under:

*“35. In one of the recent pronouncements of this Court in Mahmood Ali v. State of U.P. [Mahmood Ali v. State of U.P., (2023) 15 SCC 488] , authored by one of us (J.B. Pardiwala, J.), the legal principle applicable apropos Section 482CrPC was examined. Therein, it was observed that when an accused comes before the High Court, invoking either the inherent power under Section 482CrPC 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.”

(emphasis supplied)

18. Taking reference of a recent judgment of the Hon’ble Supreme Court in *Nitin Ahluwalia v State of Punjab and Anr.*, reported in *2025 SCC OnLine SC 2013* as of para 9, which is as under:

“Here, the respondent filed the complaint after the grant of divorce, a month later. Granted that the same is not expressly prohibited by law, it certainly begs the question as to why despite having been separated from the appellant for almost three years to the date, did the respondent consider filing an application with the police at that relevant time. To entertain the possibility that the same is nothing but a counterblast to the fact that the appellant has two orders in his favour; one by the Courts in Austria ordering the respondent to bring the child back to Australia and the other, by the Courts in Australia, accepting the appellant's prayer for grant of divorce, does not appear far-fetched.”

In the present case, the F.I.R. lodged by the O.P. No.2 in 2016



which is two years after the decree of divorce granted by the foreign court in the year 2014. Also, the petitioner no.2 has registered an F.I.R. against the O.P. No.2 and her relatives prior to that registered by the O.P. No.2.

19. Now, the law with respect to quashing of criminal proceeding is well settled that while considering a prayer to quash the criminal complaint and the consequential proceedings at the threshold, the Court is required to examine whether the allegations made in the complaint along with materials in support thereof make out a *prima facie* case to proceed against the accused or not. The reference to the same has been made by the Hon'ble Apex Court in various judgments including *State of Haryana and Ors. v. Bhajan Lal and Ors.*, reported in *1992 Supp (1) SCC 335* and *Pradeep Kumar Kesarwani v. State of Uttar Pradesh & Anr.*, reported in *2025 SCC OnLine SC 1947*.

20. In the instant case, upon careful consideration of the materials available on record and the rival submissions, it is evident that O.P. No.2 and her husband (Avinash Jha), who is co-accused, were both professionally employed abroad even prior to their marriage and, after solemnization of their marriage on 10.12.2006, continued to reside at different foreign locations,



including Japan, China and Sweden. The record further discloses that the couple lived in foreign countries independently from the petitioners who remained in India. There is no material to indicate that the petitioners had any physical proximity or day-to-day control over the matrimonial life of the couple. Moreover, the allegations contained in the F.I.R., when read in their entirety, predominantly relate to matrimonial discord between the spouses during their stay abroad and are general and omnibus in nature so far as the petitioners are concerned. Mere bald allegations of instigation are not sufficient to sustain criminal prosecution against aged parents residing separately. The marriage between O.P. No.2 and Avinash Jha (son of the petitioners) stood dissolved by a decree of divorce dated 29.08.2014 passed by the *Gävle District Court* in Sweden with the consent of both parties, whose validity has been challenged in a separate proceeding. After about two years of the said divorce judgment passed by the Sweden Court, the criminal case against the petitioners and their son (Avinash Jha) was instituted in the year 2016. Accordingly, this Court holds that no *prima facie* case is made out with respect to the alleged offences under Section 498A of the Indian Penal Code and under Sections 3 & 4 of the Dowry Prohibition Act against the



petitioners and that the impugned order taking cognizance against the petitioners warrants interference by this Court in exercise of its inherent jurisdiction.

21. Further, the materials on record do not disclose any evidence collected during investigation showing involvement of the petitioners in the alleged acts of cruelty, misappropriation of *streedhan* or dowry demand. The charge-sheet appears to have been submitted against the petitioners without any independent corroboration of their alleged role. Having regard to the admitted fact that the couple was living independently abroad and the dispute essentially pertains to *inter se* matrimonial differences between the spouses, this Court is of the considered view that the judgment of the Hon'ble Supreme Court in the case of ***Bhajan Lal (supra)*** squarely applies to the facts of this case. Therefore, it is neither expedient nor in the interest of justice to permit the present prosecution against the petitioners. In the facts and circumstances of this case, allowing the criminal proceedings to continue against the petitioners, who are in advanced stage of their lives, would result in undue harassment and miscarriage of justice. The misuse of criminal justice machinery is a matter of profound concern.



22. In view of the legal principles and factual analysis recorded hereinabove and considering the nature of allegation against the petitioners, this Court finds that the order dated 23.04.2018 passed by the learned Magistrate, so far as the petitioners are concerned, has been passed in a mechanical manner without application of judicial mind and permitting the criminal proceedings to continue against the petitioners would amount to an abuse of the process of the Court.

23. Accordingly, the impugned order of cognizance dated 23.04.2018 passed in Shastrinagar P.S. Case No.283 of 2016 by the learned Sub-Judge IV-cum-A.C.J.M., Patna *qua* the petitioners is hereby **quashed** and set-aside..

24. The present application is, accordingly, allowed.

25. Let a copy of this judgment be communicated to the learned Trial Court forthwith.

(Sunil Dutta Mishra, J)

utkarsh/-

AFR/NAFR	NAFR
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