

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74937 of 2024

Arising Out of PS. Case No.-184 Year-2024 Thana- NAYAGAON District- Saran

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Ankit Kumar Singh Son of Anil Kumar Singh R/O Flat No.- 302, Abhishek Enclave, Devi Nagar, Hesag, Hatia, P.S.- Jagarnathpur, Dist.- Ranchi, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Megha Singh Wife of Ankit Kumar Singh, D/O Rajesh Singh R/O Vill.- Dumri Bujurg, P.S.- Nayagaon, Dist.- Saran.

... .. Opposite Party/s

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Appearance :

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| For the Petitioner/s : | Mr. Radha Mohan Singh, Advocate |
| For the Opposite Party/s : | Mr. Ajit Kumar, APP |
| For the Informant : | Mr. Ashish Giri, Sr. Advocate Mr. Rajat Kumar Tiwary, Advocate Ms. Deepika Sharma, Advocate |

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 16-12-2025

Heard Mr. Ajit Kumar, learned APP for the State and Mr. Ashish Giri, learned senior counsel along with Mr. Rajat Kumar Tiwary and Deepika Sharma, learned counsels appearing on behalf of the Informant.

2. The petitioner has preferred the application under Section 482 Cr.P.C. / 528 BNSS for quashing the FIR bearing Nayagaon P.S. Case No.184 of 2024 registered against the petitioner for the offences punishable under Sections 126(2), 115(2), 74, 85, 352, 351(2), 79, 3(5) of the BNS, corresponding to Sections 341, 323, 354, 498A, 504, 506, 509 and 34 of the Indian Penal Code respectively and under sections 3 and 4 of



the DP Act.

3. The present case has been listed out of turn on the request of Mr. Ashish Giri, learned Senior Counsel appearing on behalf of Informant. He submitted that he has requested repeatedly to the counsel for the petitioner, Mr. Radha Mohan Singh to appear in this case, but he has not given any notice to his request. However, he argued the case on merits.

4. The prosecution case, in brief, is that the informant, namely Megha Singh (Opposite Party No. 2), alleged that her marriage with the petitioner was solemnized in the year 2017 and soon thereafter she was subjected to cruelty and harassment by the accused persons on account of demand for dowry. She has further alleged that her sister-in-law, Shweta Singh, in an intoxicated condition once attempted to assault her with a knife and, along with her mother-in-law Punam Singh, mentally harassed her, while her father-in-law, Anil Kumar Singh, after consuming alcohol, attempted to sexually abuse her and taunted her by stating that her father had not fulfilled the demand of a car, and similar allegations of physical and sexual assaults were also levelled against the uncle of the petitioner, Sunil Kumar Singh. She further alleged that after the birth of a female child, the accused persons again subjected her to cruelty



as they were displeased with the birth of a girl child and coerced her to give the child in adoption to her elder sister-in-law Jyotsna Singh, and upon her refusal, the petitioner and her brother-in-law Shiven Singh allegedly assaulted her physically, with further allegations of sexual abuse being levelled against the said brother-in-law. When she complained of these incidents to her husband, he assaulted her and forcibly ousted her from the matrimonial home along with her minor daughter, compelling her to take shelter at her parental home, and that on 09.08.2024, all the accused persons came to her parental house and attempted to forcibly take away her minor daughter but failed. Thereafter, on 25.08.2024, the petitioner allegedly deceitfully took away the minor child and, despite repeated requests and communications, the accused persons finally refused on 11.09.2024 to return the child, forcing the O.P. No.2 to file the present FIR.

5. Mr. Ashish Giri, learned Sr. counsel appearing on behalf of informant/O.P. No.2 at the outset submitted that *vide* order dated 04.02.2025, the further proceeding in connection with Nayagaon P.S. Case No.184 of 2024 was stayed. Thereafter, *vide* order dated 16.05.2025, the present case was sent for mediation before the learned Mediator of the Patna



High Court. As per the report of the learned Mediator, the mediation between the parties failed, as the dispute between the parties could not be resolved through the process of mediation. He further submitted that the petitioner is still enjoying the interim relief granted by this Court and, as such, he has mentioned this case to be listed out of turn.

6. He has read the entire FIR. He submitted that the specific allegation against the petitioner is that the petitioner and his family members were not happy with the girl child, which was born out of the said wedlock, as they wanted to have a male child and thereafter, they forced the O.P. No.2 to give the child to her elder *Nanad* by way of adoption but she refused to do so. Thereafter, the petitioner allegedly abducted the child from the O.P. No.2. He submitted that aggrieved by the said act of the petitioner and his family members, the O.P. No.2 has lodged the present FIR. He has also informed that O.P. No.2 has already sought remedy before the Family Court for custody of child.

7. Mr. Giri referring to the judgment of the Apex Court in case of *M/s. Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra (2021 SCC Online SC 315)* submitted that the Court must restrain from exercising its jurisdiction to quash the FIR.



8. He has further relied on a judgment of the Apex Court in case of *Veena Mittal vs The State Of Uttar Pradesh & Ors. (Criminal Appeal No.122 of 2022) arising out of SLP (Crl) No.5732 of 2019* and submitted that in the said case also, similar allegation was made by the wife against her husband and in-laws and in the backdrop of the allegation made in the FIR, the Apex Court concluded to hold that finding of the High Court to the effect that there is no specific allegation against the second and third respondents, or that as the mother and sister of the bridegroom, they would not be either beneficiaries or have a direct link with the perpetrators of the crime is not based on cogent material or reading of the First Information Report (FIR).

9. He has next submitted that veracity of the allegation made in the FIR cannot be looked into by this Court when the investigation is still going on.

10. Having heard learned Senior Counsel appearing on behalf of O.P. No.2 and also having perused the records of the case, I find that there is no material on record to draw the conclusion that the petitioner has derived the informant, who is his wife to commit suicide or has caused grave injury or caused danger to her life, limb or health. In this regard, I want to



analyze Section 85 of the BNS, corresponding Section 498A of the Indian Penal Code, which is as under;

“85. Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.”

11. So far as the reliance made by Mr. Giri upon the judgment of the Apex Court in case of ***M/s. Neeharika Infrastructure Pvt. Ltd.(supra)*** is concerned, I find that the said case is of no relevance, insofar as, the allegation which has been made in the present case. In the case of ***M/s. Neeharika Infrastructure Pvt. Ltd.(supra)***, the Apex Court faced with the allegation made under Sections 406, 420, 465, 468, 471 and 120B of the Indian Penal Code had concluded principle to exercise jurisdiction under Section 528 of BNSS in para 23, which is reproduced hereinafter:

“23. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or “no coercive steps to be adopted”, during the pendency of the quashing petition under Section 482 Cr.P.C and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or “no coercive steps to be adopted” during the investigation or till the final report/chargesheet is filed under Section 173 Cr.P.C., while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India, our final conclusions are as under:

i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal



Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;

ii) Courts would not thwart any investigation into the cognizable offences;

iii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;

iv) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the 'rarest of rare cases (not to be confused with the formation in the context of death penalty).

v) While examining an 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 in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;

viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate

in two specific spheres of activities and one ought not to tread over the other sphere;

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported.

Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to



pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate

which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint;

xv) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;

xvi) The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the

Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or “no coercive steps to be adopted” and the accused should be relegated to apply for anticipatory bail under Section 438 Cr.P.C. before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or “no coercive steps” either during the investigation or till the investigation is completed and/or till the final report/chargesheet is filed under Section 173 Cr.P.C., while dismissing/disposing of the quashing petition under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India. xvii) Even in a case where the



High Court is prima facie of the opinion that an exceptional case is made out for grant of interim stay of further investigation, after considering the broad parameters while exercising the powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India referred to hereinabove, the High Court has to give brief reasons why such an

interim order is warranted and/or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.

xviii) Whenever an interim order is passed by the High Court of “no coercive steps to be adopted” within the aforesaid parameters, the High Court must clarify what does it mean by “no coercive steps to be adopted” as the term “no coercive steps to be adopted” can be said to be too vague and/or broad which can be misunderstood and/or misapplied.”

12. So far as the reliance made by Mr. Giri upon the judgment of the Apex Court in case of **Veena Mittal (Supra)** is concerned, I find that the said case is also of no relevance, as in the present case, sweeping allegation has been made by the informant against her husband/petitioner. Otherwise also, I find that at no point of time, after marriage which was solemnized with the petitioner in the year 2017, the informant has alleged any allegation of cruelty against the petitioner.

13. With a word of caution, I may refer the judgment passed by the Apex Court in the case of **State of Haryana & Ors. vs. Ch. Bhajan Lal & Ors.** reported in (1992) **Supp (1) SCC 335** which was later on clarified in the case of **Lalita Kumari vs. Govt. of U.P.** reported in (2014) **2 SCC 1**. In



para 120(6) of the **Lalita Kumari** (Supra), the following observation, guidelines and exceptions have been laid down by the Apex Court, which is reproduced hereinafter;

“120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

*(a) **Matrimonial disputes/family disputes***

(b) Commercial offences

(c) Medical negligence cases

(d) Corruption cases

(e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.”

14. One of the exceptions is matrimonial cases, being offence not against the society and the parties are required to be given opportunity to reconcile their strained matrimonial relationship.

15. At the stage of FIR, the scope of examination is confined to the allegations as disclosed in the FIR alone. A three-Judge Bench of the Hon'ble Supreme Court of India in **State Of Karnataka s Muniswamy & Ors** reported in **(1977) 2 SCC 699** examined the scope of jurisdiction of the High Court under Section 482 Cr.P.C. (Now 528 BNSS) and held that the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of process of the Court or that the ends of justice require that the proceeding ought to be quashed. The relevant portion is



reproduced hereinunder:

"7. In the exercise of the wholesome power u/s 482 of the Act 2 of 1974 (Section 561 of 1898 Code), the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment and persecution. In a criminal case, the veiled object behind a prosecution, the very nature of the material on which the structure of the protection rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. Without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction."

16. In other words, when the allegations made in the complaint disclose the commission of an offence the complaint cannot be quashed by placing reliance on materials that pertain to the defence of the accused, for the truth or falsity of the allegations, as also the plausibility of the defence plea, can be determined only upon a proper investigation or at the stage of trial. I am also guided to take this view from the case of ***State of Bihar and Anr. Vs Mohd. Khalique and Anr.*** reported in ***(2002) 1 SCC 652***, wherein the Apex Court, while dealing with the quashing of FIR, observed as follows:



"7. In Bhajanlal case, this Court has also held that the power of quashing a criminal proceeding should be exercised sparingly and with circumspection and that too in the rarest or rare cases. The present case is not rarest of rare case.

8. In view of the settled legal position and as offences have been disclosed in the FIR, the High Court ought not to have interfered with the investigation and should have permitted the police to complete it. We accordingly hold that the High Court has committed a grave error in quashing the entire proceedings and ought not to have thwarted the prosecution."

17. It is, no doubt, correct that while exercising its inherent jurisdiction under Section 482 Cr.PC (528 BNSS), or its revisional jurisdiction under Section 397 IPC (457 BNSS) when a complaint or FIR is sought to be quashed, it is not open to the High Court to examine the defence of the accused or to embark upon an enquiry into the correctness or veracity of the allegations. Nonetheless, in appropriate cases, where the documents produced by the accused are of unimpeachable character and beyond suspicion or doubt, and such material demonstrably renders the accusations unsustainable, it would amount to a perversity of justice to compel the accused to undergo the ordeal of a criminal trial. To permit the prosecution to proceed in such circumstances would amount to a dermal of justice and would constitute a clear abuse of the process of the Court.

18. The Hon'ble Supreme Court in the case of ***State***



of Madhya Pradesh & Ors. vs. Shri Ram Singh reported in *AIR 2000 Supreme Court 870* relying on its earlier judgment passed in State of *Bhajan Lal (supra)*, has observed that "*it is of utmost importance that investigation into criminal offence must always be free from any objectionable features or infirmities which may legitimately lead to the grievance of the accused that the work of investigation is carried on unfairly and with any ulterior motive.*"

19. In the case of **Neeharika (Supra)** the Apex Court expressly held that "*Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences*".

20. In case of Lalita (Supra), the Apex Court held that preliminary inquiry is mandated in matrimonial cases. The Apex Court in the case of **B.S. Joshi v. State of Haryana**, reported in, **(2003) 4 SCC 675**, has held in paragraph nos. 12 and 13 that the matrimonial dispute is not an offense against the society rather a matrimonial dispute is a private conflict between spouses and does not inherently constitute an offence against society. The paragraph nos. 12 and 13 are reproduced hereinafter:

“ 12. *The special features in such*



matrimonial matters are evident. It becomes the duty of the court to encourage genuine settlements of matrimonial disputes.

*13. The observations made by this Court, though in a slightly different context, in **G.V. Rao v. L.H.V. Prasad [(2000) 3 SCC 693 : 2000 SCC (Cri) 733]** are very apt for determining the approach required to be kept in view in a matrimonial dispute by the courts. It was said that there has been an outburst of matrimonial disputes 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.*

21. The allegation against the petitioner is that he along with his family members, who have also been made accused on account of non-fulfillment of demand of dowry, have subjected the O.P. No.2 to cruelty. No where the O.P. No.2 has alleged that the petitioner has assaulted her, rather the allegation is specific against her father-in-law and co-accused Anil Kumar Singh, who have allegedly attempted to sexually abuse the O.P. No.2. I find that the petitioner has been made prey by O.P. No.2 just because he is her husband to attract the allegation under Section 498 A of the Indian Penal Code. At the



same time, I find that couple are blessed with a child who requires equal attention, care and love of both father and mother. The informant, who is the wife, has already sought remedy before the Family Court for custody of child. In such circumstances, even considering the interest of the child is of paramount importance, as held in cases of *Howarth v. Northcott, 152 Conn 460 and Mausami Moita Ganguli V. Jayant Ganguli reported in (2008)7 SCC 673*, continuing with the proceeding on the basis of general and omnibus allegation, as alleged against the petitioner in the FIR will amount to abuse of process of law. Accordingly, the FIR in connection with Nayagaon P.S. Case No.184 of 2024 is **quashed and set aside** with respect to the petitioner.

22. The Present petition is allowed.

23. The parties, who are husband and wife, may reconcile their strained matrimonial relationship amicably, preferably outside the Court, even though I have quashed the FIR in connection with the petitioner.

(Purnendu Singh, J)

Sanjay/-
Ashishsingh/-

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