

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68154 of 2024

Arising Out of PS. Case No.-277 Year-2018 Thana- JANDAHA District- Vaishali

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1. Rintu Devi Wife of Tunna Singh @ Mirgendra Pratap Singh R/V- Village- Nawabganj, P.S.- Kursaila, Distt.- Katihar
 2. Tunna Singh @ Mrigendra Pratap Singh Son of Nagendra Singh R/V- Village- Nawabganj, P.S.- Kursaila, Distt.- Katihar
 3. Nutan Devi Wife of Pankaj Singh @ Pankaj Kumar Singh R/V- Village- Aguwani, P.S.- Parbatta, Distt.- Katihar
 4. Pankaj Singh @ Pankaj Kumar Singh Son of Dharmbeer Singh R/V- Village- Aguwani, P.S.- Parbatta, Distt.- Katihar
 5. Usha Devi Wife of Late Upendra Singh R/V- Village- Nawadih, P.S.- Rikhiya, Distt.- Deoghar, Jharkhand at present posted at Police Inspector Hazaribagh

... .. Petitioner/s

Versus

1. The State of Bihar
2. Madhumala Devi Wife of Kumar Gaurav, D/O- Alakhdev Singh R/V- Village- chak Faah, P.S.- Jandaha, Distt.- Vaishali

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manindra Kishore Singh, Advocate
For the O.P. No. 2	:	Mr. Manish Kumar Singh, Advocate
For the State	:	Dr. Ajeet Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 13-10-2025

Heard learned counsel appearing on behalf of the petitioners, learned APP for the State and learned counsel for the opposite party no.2.

2. The present application has been filed under Section 482 Cr.P.C. for quashing of the entire proceeding including the order dated 08.05.2023 passed by the learned Sub-Divisional Judicial Magistrate, Hajipur, Vaishali in TR No. 2590



of 2023/ 2349 of 2024 arising out of Jandaha P.S. Case No. 277 of 2018 (GR 6261 of 2018), whereby charges have been framed under Sections 498A, 341, 323, 34 of the Indian Penal Code against the petitioners, as well as, the order dated 07.05.2024 passed by the learned Sessions Judge, Vaishali at Hajipur in Cr. Rev. No. 272 of 2023 by which the revision filed against the order dated 23.01.2023 passed by the learned S.D.J.M., Civil Court Vaishali at Hajipur was rejected on the ground that the charges have already framed on 08.05.2023.

3. The allegation is of subjecting the informant – opposite party no.2 to various sorts of torture due to non-fulfillment of the demand of the dowry.

4. Learned counsel appearing on behalf of the petitioners submitted that petitioners no. 1 and 3 are sister-in-law and petitioners no. 2 and 4 are brother-in-law of the opposite party no. 2, who is the wife of accused Kumar Gourav @ Vickki Singh, and petitioner no. 5 is the mother-in-law of the opposite party no. 2. Learned counsel submitted that petitioners no. 1 to 4 reside separately and they have no concern with the the affairs of the opposite party no.2 and her husband and just because petitioners no. 1 and 3 are own sister of the husband of the opposite party no. 2, they have been roped in a false case on



the basis of false allegation along with their husband (petitioners no. 3 and 4). So far as petitioner no. 5 is concerned, learned counsel submitted that she is posted as Police Inspector at Hazaribagh and she also has no concern with the strained matrimonial relationship between her son and daughter-in-law (opposite party no.2). He further submitted that a specific statement has been made in paragraph no. 11 of the application that petitioner no. 5 is providing money and maintaining the two sons of the informant (opposite party no. 2) and her son (Kumar Gourav @ Vickki Singh). The opposite party no. 2 is residing along with her husband at Deoghar and in this regard, he has made a specific statement in paragraph no. 9 of the present quashing application but the petitioners are facing criminal prosecution, which amounts to vexatious and continuing with the same will lead to abuse of process of law.

5. *Per contra*, learned counsel appearing on behalf of the opposite party no. 2 submitted that the petitioners have given wrong information in paragraphs no. 9 and 11 of the application that opposite party no. 2 is residing along with her husband (Kumar Gourav @ Vickki Singh) at Deoghar and petitioner no. 5 is providing money and maintaining the two sons of the informant (opposite party no. 2) and her son (Kumar



Gourav @ Vickki Singh) in order to get rid of the present criminal prosecution.

6. Learned A.P.P. appearing on behalf of the State submitted that no interference can be made by this Court, considering the allegations made in the FIR. The complicity of the petitioners in subjecting the opposite party no. 2 of various sorts of torture cannot be denied.

7. Heard the parties.

8. Having considered the rival submissions made on behalf of the parties, as well as, having considered the nature of allegation made against petitioners no. 1 to 4, I find that from the very perusal of the FIR, it appears that the petitioners no. 1 and 3 are sister-in-law of opposite party no. 2 and petitioners no. 2 and 4 are brother-in-law of the opposite party no. 2 and they reside at another place and it appears that without mentioning the above facts, only allegation has been made in the FIR that they have subjected the opposite party no. 2 to cruelty for non fulfillment of demand of dowry. It is commonly seen in the society that the entire family members, as well as, relatives are made accused along with the husband to face criminal prosecution.

9. The law in respect of matrimonial dispute between



husband and wife is well settled at the same time, the Apex Court has held that the family members of husband should not be roped unnecessarily.

10. It is commonly seen in the society that the entire family members, as well as, relatives are made accused along with the husband to face criminal prosecution. The Apex Court has demarcated the manner in which the complaints are entertained by the learned District Court. The Apex Court in case of *Naushey Ali & Ors. Vs. State of Uttar Pradesh & Anr.* reported in **(2025) 4 SCC 78**, considering the entirety of matters, particularly dealing with the misuse of Section 498 of IPC, referring to its earlier judgment, finally concluded that offences arising out of matrimonial dispute particularly relating to dowry etc. or a family dispute where wrong is committed to the victim by the offenders and his family, can be settled amicably and also in light of the recent judgment of Apex Court in the case of *Navneesh Aggarwal & Ors. v. State of Haryana & Anr.* reported in **2025 INSC 963**, I find that no case under Section 498A of IPC is made out against petitioner nos. 1 to 4. Accordingly, the entire proceeding including the order dated 08.05.2023 passed by SDJM, Vaishali at Hajipur and the order dated 07.05.2024 passed by the learned Sessions Judge, Vaishali



at Hajipur are hereby **set aside and quashed to the extent it relates to petitioners no. 1 to 4.**

11. So far as the petitioner no. 5 is concerned, the Marriage of opposite party no. 2 had taken place in the year 2007 with the son of the petitioner no. 5 and out of the said wedlock, they have been blessed with two sons. The petitioner no. 5 being grand mother of the two sons has given information in paragraph no. 11 of the application that she is taking care of the two children and she is also providing monetary help for their proper growth. However, the said information has been objected by learned counsel appearing on behalf of the opposite party no. 2. This Court finds that petitioner no. 5, who is a government officer, must discharge her responsibility to settle the strained matrimonial relationship between her son and daughter-in-law and it is expected from petitioner no. 5 and opposite party no. 2 that they will arrive at a mutual agreement taking into consideration the interest of the minor children to put an end to the litigation.

12. In peculiar facts of the case and considering the background circumstances of the welfare of the child on the touchstone of principle of *parens patriae* jurisdiction as the minor is within the jurisdiction of the Court, the Apex Court



found it in the case of ***Howarth v. Northcott, 152 Conn 460*** that the welfare of the child is of paramount consideration of the Court. I find it apt to reproduce the observations made by the Apex Court in the aforesaid case, which is as under:

"In habeas corpus proceedings to determine child custody, the jurisdiction exercise by the Court rests in such cases on its inherent equitable powers and exerts the force of the State, as parens patrie, for the protection of its infant ward, and the very nature and scope of the inquiry and the result sought to be accomplished call for the exercise of the jurisdiction of a court of equity." (emphasis supplied)

It was further observed;

"The employment of the forms of habeas corpus in a child custody case is not for the purpose of testing the legality of a confinement or restraint as contemplated by the ancient common law writ, or by statute, but the primary purpose is to furnish a means by which the court, in the exercise of its judicial discretion, may determine what is best for the welfare of the child, and the decision is reached by a consideration of the equities involved in the welfare of the child, against which the legal rights of no one, including the parents, are allowed to militate. It was also indicated that ordinarily, the basis for issuance of a writ of habeas corpus is an illegal detention; but in the case of such a writ sued out for the detention of a child, the law is concerned not so much with the illegality of the detention as with the welfare of the child."

13. In this regard, it would be also gainful to reproduce the observation made by the Apex Court in ***Mausami Moita Ganguli V. Jayant Ganguli*** reported in **(2008) 7 SCC 673** in paragraph nos. 19 to 21 and 23 to 26:

"19. The principle of law in relation to the custody of a minor child are well settled. It is trite that while determining the question as to which parent the care and control of a child should be committed, the first and the paramount consideration is the welfare and interest of the child and not the rights of the parents under a statute. Indubitably, the provisions of the law pertaining to the



custody of a child contained in either the Guardians and Wards Act, 1890(Section 17) or the Hindu Minority and Guardianship Act, 1956 (Section 13) also hold out the welfare of the child as a predominant consideration. In fact, no statute, on the subject, can ignore, eschew or obliterate the vital factor of the welfare of the minor.”

“20. The question of welfare of the minor child has again to be considered in the background of the relevant facts and circumstances. Each case has to be decided on its own facts and other decided cases can hardly serve as binding precedents in so far as the factual aspects of the case are concerned. It is, no doubt, true that father is presumed by the statutes to be better suited to look after the welfare of the child, being normally the working member and head of the family, yet in each case the court has to see primarily to the welfare of the child in determining the question of his or her custody. Better financial resources of either of the parents or their love for the child may be one relevant considerations but cannot be the sole determining factor for the custody of the child. It is here that a heavy duty is cast on the court to exercise its judicial discretion judiciously in the background of all the relevant facts and circumstance, bearing in mind the welfare of the child as the paramount consideration.”

21. In Rosy Jacob v. Jacob A. Chakramakkal reported in (1973) 1 SCC 840, a three-Judge Bench of the Apex Court in a rather curt language had observed that the controlling factor governing the custody of the child would be its welfare and not the rights of the parent:

“15. ... The children are not mere chattels: nor are they mere playthings for their parents. Absolute right of the parents over the destinies and the lives of their children has, in the modern changed social conditions, yielded to the considerations of their welfare as human being so that they may grow up in a normal balanced manner to be useful members of the society and the guardian court in case of a dispute between the mother and the father, is expected to strike a just and proper balance between the requirements of welfare of the minor children and the rights of their respective parents over them.”

“23. Having bestowed our anxious consideration to the material on record and the observation made by the courts below, we are of the view that in the present case there is no ground to upset the judgment and order of the High Court. There is nothing on record to suggest that the welfare of the child is in any way in peril in the hands of the father. In our opinion, the stability and security of the child is also essential ingredient for a full development of child's talent and personality. As noted above, the appellant is a teacher, now employed in a school at Panipat, where she had shifted from Chandigarh some time back. Earlier, she was teaching in some school at



Calcutta.

Admittedly, she is living alone. Except for a very short duration when he was with the appellant, Master Satyajeet has been living and studying in Allahabad in a good school and is stated to have his small group of friends there. At Panipat, it would be an entirely new environment for him as compared to Allahabad."

"25. It is also significant to note that during the course of hearing on one of the dates, when we had not yet interviewed Satyajeet, we had suggested that it would be better if the child could stay with his mother for some more time. However, upon hearing us, he started crying and whining and, showed reluctance to go with the mother."

Watching his reaction, we dropped the proposal.

"26. Under these circumstances and bearing in mind the paramount consideration of the welfare of the child, we are convinced that the child's interest and welfare will be best served if he continues to be in the custody of the father. In our opinion, for the present, it is not desirable to disturb the custody of master Satyajeet and, therefore, the order of the High Court giving his exclusive custody to the father with visitation rights to the mother deserves to be maintained. We feel that the visitation rights to the appellant by the High Court, as noted above, also do not require any modification."

We, therefore, affirm the order and the afore-extracted direction given by the High Court. It will, however, be open to the parties to move this Court for modification of this order or for seeking any direction regarding the custody and well-being of the child, if there is any change in the circumstances."

14. In the case of **Gaurav Nagpal v. Sumedha Nagpal** reported in **(2009) 1 SCC 42**, the Apex Court in paragraph 50 has held as follows:-

"50. When the Court is confronted with conflicting demands made by the parents, each time it has to justify the demands. The Court has not only to look at the issue on legalistic basis, in such matters human angles are relevant for deciding those issues. The Court then does not give emphasis on what the parties say, it has to exercise a jurisdiction which is aimed at the welfare of the minor."

15. The interest of children becomes paramount. The



court has to play role of *parens patriae*. The petitioner no. 5 is police inspector on whose behalf a vague statement has been made in paragraph no. 11 that she is spending certain amount for care of the children and earning of her son (accused) is not enough. This Court finds that petitioner no. 5 must ensure to make payment of at least Rs. 25,000/- per month in lumpsum for the proper care and nutrition of the two children.

16. 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 Apex Court in the case of **B.S. Joshi v. State of Haryana**, reported in, **(2003) 4 SCC 675**, in paragraph nos. 12 and 13 has held as under:-

“ 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.

17. Recently also, the Apex Court in the case of ***Mange Ram Vs. State of Madhya Pradesh & Another (Special Leave Petition (Criminal) No.10817 of 2024)***, in paragraph nos. 25, 31 and 32 has reiterated that in cases, particularly, related to dowry, opportunity be given to the parties first to reconcile, which *inter alia* are as follows:-

“25. This Court, in Dara Lakshmi Narayana vs. State of Telangana, (2025) 3 SCC 735, has made it clear that family members of the husband ought not to be unnecessarily roped into criminal proceedings arising out of matrimonial discord. The Court observed that it has become a recurring tendency to implicate every member of the husband’s family, irrespective of their role or actual involvement, merely because a dispute has arisen between the spouses. It was further held that where the allegations are bereft of specific particulars, and particularly where the relatives sought to be prosecuted are residing separately or have had no connection with the matrimonial home, allowing the prosecution to proceed would amount to an abuse of the process of law. The Court noted that criminal law is not to be deployed as an instrument of harassment, and that judicial scrutiny must be exercised to guard against such misuse.

31. We also refer to Gian Singh vs. State of Punjab, (2012) 10 SCC 303 wherein this Court observed that where the High Court quashes a criminal proceeding having regard to the fact that the dispute between the offender and the victim has been settled, although the offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice



in the case demands that the dispute between the parties is put to an end and peace is restored, securing the ends of justice being the ultimate guiding factor. In this regard, a specific reference was made to offences arising out of matrimony, particularly relating to dowry, etc. or a family dispute, where the wrong is basically to the victim but the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable. The High Court may, within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

32. In Naushey Ali vs. State of U.P., (2025) 4 SCC 78, one of us (Viswanathan, J.) observed in paragraph 32 that proceeding with the trial, when the parties have amicably resolved the dispute, would be futile and the ends of justice require that the settlement be given effect to by quashing the proceedings. It would be a grave abuse of process particularly when the dispute is settled and resolved."

18. The petitioner no. 5, who is the mother-in-law of the the O.P. No. 2 may proceed to settle the strained matrimonial relationship of her son and daughter-in-law (O.P. No.2) amicably, the learned District Court shall also strive till last to settle the dispute outside the Court

19. Petitioner no. 5 along with her son and opposite party no. 2 have agreed to appear before the learned District Court on 27.11.2025 at 10:30 AM.

20. Learned District Court is directed to take



necessary steps to issue notices to the respective parties and upon their appearance refer the matter before the learned Mediator of the District Mediation Center.

21. Learned Mediator of the District Mediation Center concerned shall make his/her best efforts to settle the dispute between the parties amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of four months, till then, no coercive action shall be taken against the petitioner no. 5 in connection with the aforesaid case.

22. In case, the parties resolve their dispute amicably, then the proceeding is required to be dropped in light of the law laid down by the Apex Court as referred hereinabove.

23. In case of failure on the part of the petitioner no. 5 to appear on 27.11.2025 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the petitioner no. 5 shall automatically lose its force.

24. In case, it is deliberate on the part of the Petitioner no. 5 and she fails to reconcile, then in that case, the learned District Court shall proceed with the trial. In case, it is deliberate on the part of the opposite party no.2 to reconcile, then in that case, continuing with the criminal proceeding will



amount to abuse of process of court and the interim protection granted to petitioner no. 5 shall continue and the proceeding against her is required to be dropped in accordance with law.

25. Accordingly, the present quashing application stands disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.10.2025
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