IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7610 of 2017

Arising Out of PS. Case No.-19 Year-2014 Thana- MAHILA P.S. District- Nawada

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Gopal Sao Son of Anil Sao, Resident of Mohalla- Dobhara Par, P.S.- Nawada, District- Nawada.

... ... Petitioner/s

Versus

1. State Of Bihar
2. Guriya, Daughter of Badhyanath Sao, Resident of Purani Beldariya Behind Jail, P.S.- Nawada, District- Nawada.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Sanjay Kumar Sinha, Advocate
For the Opposite Party/s : Mr. Murlidhar, APP

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CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR

ORAL JUDGMENT

Date : 20-08-2026

Even after valid service of notice upon O.P. No.2, she has not chosen to appear before this Court. However, learned counsel for the petitioner and learned A.P.P. for the State are present.

2. The petitioner has challenged the order dated 02.06.2016, passed by learned Additional Chief Judicial Magistrate-IIIrd, Nawada, in connection with Mahila P.S. Case No. 19 of 2014 arising out of Complaint Case No. 813 of 2014, whereby cognizance has been taken against the petitioner for the offence punishable under Section 498(A) of the Indian Penal Code.

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3. The prosecution case arises out of Complaint Case No. 813/2014, instituted on 04.06.2014 by Opposite Party No. 2 (Guriya Devi) before the learned Chief Judicial Magistrate, Nawada, alleging that after her marriage to the petitioner, she was subjected to physical and mental cruelty by the petitioner and his family members over an unmet dowry demand of Rs. 1,00,000/-. It has further been alleged that she was assaulted and ousted from her matrimonial home in September 2013, after which she began residing in a rented house at Village Beldariya, where the petitioner allegedly continued to harass her, snatched her earnings from a bangle shop, and on 24.05.2014 broke into her residence to steal a steel box containing Rs. 60,000/-. The complaint was referred under Section 156(3) of the Cr.P.C. for registration of an F.I.R., and following the investigation, the Investigating Officer submitted charge-sheet No. 68/15 dated 31.12.2015, solely against the petitioner under Section 498A of the IPC while exonerating all other co-accused persons. Consequently, by the impugned order dated 02.06.2016, the learned Additional Chief Judicial Magistrate-III, Nawada, took cognizance of the offence under Section 498A IPC and issued summons against the petitioner, which is now under challenge.

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4. Learned counsel for the petitioner has submitted that he has falsely been implicated in this case and the informant was previously married to one Shankar Sao in the year 1997 and she has filed a complaint case against him and his entire family by filing a complaint case bearing No. 622 of 1998, which is still sub-judice before the Trial Court. It has further been submitted that the said husband of the complainant has shown affidavit and had filed it in the anticipatory bail application filed by the petitioner in the Court below. It has further been submitted that marriage between the informant and the said Shankar Sao is still in existence and the present complaint has been filed in the year 2014 alleging that she was married 2 to 3 years ago, although, no date, time and place has been mentioned in the complaint. It has further been submitted that notices were sent to her in the present proceeding as well as in mediation proceeding but she never chose to appear. It has further been submitted that she is residing somewhere. It has further been submitted that the prosecution against the petitioner is attended with malice, personal vendetta and out of personal score, which is vexatious and malicious in nature.

4.1. Learned counsel for the petitioner has placed reliance upon a judgment of the Hon'ble Supreme Court in the case of **Achin Gupta vs. State of Haryana & Anr;** reported in

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[2024] 6 S.C.R. 129, and has submitted that the F.I.R. is completely vexatious and the order taking cognizance is fit to be quashed.

4.2. Learned counsel for the petitioner has further referred to the case of **State of *Haryana Vs. Bhajanlal*** reported in ***1992 Supp (1) SCC 335,*** wherein the category No. 1, 7 and 11 as discussed in the said judgment would be applicable in the case of this petitioner.

4.3. Learned counsel for the petitioner has further submitted that continuation of proceeding against the petitioner would be an abuse of the process of Court when the complainant has herself not come to the Court with clean hands, the investigation was done in a perfunctory manner without ascertaining the actual fact and the cognizance came to be taken mechanically on the basis of such finding in the charge-sheet.

5. Learned counsel for the State has opposed the prayer of the petitioner.

6. Considering the facts and circumstances and the fact of the suspicious nature of the complainant/informant in lodging the F.I.R. as also the vexatious and malicious intent of the informant, the continuation of present case against the petitioner would be an abuse of the process of Court. Resultantly, the order

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dated 02.06.2016, passed by learned Additional Chief Judicial Magistrate-IIIrd, Nawada, in connection with Mahila P.S. Case No. 19 of 2014, arising out of Complaint Case No. 813 of 2014, is hereby quashed.

7. The application stands allowed.

(Praveen Kumar, J)

Abdus/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.08.2026
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