

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.36935 of 2025**

Arising Out of PS. Case No.-1535 Year-2024 Thana- BEGUSARAI COMPLAINT CASE  
District- Begusarai

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1. Manju Devi W/o Sri Shiv Shankar Singh R/o vill - Bihat Tola Khemkarapur, ward no. 16, P.s.- F.C.I., Distt.- Begusarai
2. Shivam Kumar S/o Sri Shiv Shankar Singh R/o vill - Bihat Tola Khemkarapur, ward no. 16, P.s.- F.C.I., Distt.- Begusarai
3. Rupam Devi D/o Sri shiv Shankar Singh R/o vill - Bihat Tola Khemkarapur, ward no. 16, P.s.- F.C.I., Distt.- Begusarai

... ... Petitioner/s

Versus

1. The State of Bihar
2. Amrita Devi W/o Sri Sumit Kumar R/o vill - Bihat Tola Khemkarapur, ward no. 16, P.S.- F.C.I., Distt.- Begusarai

... ... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mrs. Vaishnavi Singh, Advocate  
For the Opposite Party/s : Mr. Pradeep Narain Kumar, APP

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**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA**  
**C.A.V. JUDGMENT**

**Date : 19-01-2026**

Heard learned counsel for the petitioners and

learned counsel for the State.

2. The present application has been filed for quashing the order dated 03.01.2025 passed by learned Judicial Magistrate First Class, Begusarai in Complaint Case No.1535 of 2024 whereby and whereunder the learned Judicial Magistrate First Class, Begusarai took cognizance and issued process for facing trial against the petitioners and others for the offences under sections 85, 115(2), 118(1), 191(2) of the Bharatiya Nyaya Sanhita, 2023.



3. The prosecution case, in brief, is that the complainant solemnized marriage with the co-accused, Sumit Kumar, in accordance with Hindu rites and rituals at the Kali Temple, Begusarai. It is alleged that despite being fully aware that the complainant was a divorced woman belonging to a different caste and having a minor son from her previous marriage, the co-accused Sumit Kumar voluntarily entered into the said matrimonial alliance. After the marriage, the complainant was kept in a rented accommodation. Subsequently, it is alleged that the co-accused Sumit Kumar, along with the other accused persons, subjected the complainant to cruelty, including caste-based abuse and physical assault. It is further alleged that petitioner no. 2 made an attempt to press the complainant's neck with an intention to cause her harm.

4. The learned counsel for the petitioners submits that the present criminal proceeding is a gross abuse of the process of law and are liable to be quashed at the threshold. The complaint is founded on vague, omnibus and generalized allegations without attributing any specific overt act of cruelty to the petitioners. In this regard, reliance is placed upon the judgment of the ***Hon'ble Supreme Court in Preeti Gupta and Another v. State of Jharkhand and Another***, reported at (2010)

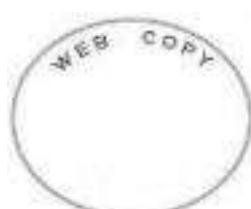


**7 SCC 667**, wherein the Court has cautioned against the tendency to implicate all family members of the husband in matrimonial disputes on the basis of sweeping and exaggerated allegations.

5. The learned counsel for the petitioners further relies upon ***Achin Gupta v. State of Haryana and Another***, reported at **(2025) 3 SCC**, wherein the Hon'ble Supreme Court has reiterated that criminal prosecution in matrimonial disputes cannot be sustained in the absence of specific allegations and material particulars showing active involvement of the accused persons. It has been held that continuation of such proceedings amounts to misuse of criminal law.

6. Placing further reliance upon ***Rajesh Sharma and Others v. State of Uttar Pradesh and Another***, reported at **(2018) 10 SCC 472**, the learned counsel for the petitioners submits that the Hon'ble Supreme Court has recognized the rampant misuse of Section 498A IPC and has emphasized the need for judicial scrutiny before subjecting the relatives of the husband to criminal prosecution, particularly when allegations are bald and unsubstantiated.

7. The learned counsel further submits that the very foundation of the prosecution is unsustainable, as the



complainant was already married to another person and no decree of divorce has been placed on record. Consequently, the alleged marriage with co-accused Sumit Kumar is void-ab initio. In this context, reliance is placed upon **Dolly Rani v. Manish Kumar Chanchal**, reported at (2025) 2 SCC 587, wherein the Hon'ble Supreme Court has clearly laid down the essential ingredients of a valid marriage and held that in the absence of a legally valid subsisting marriage, prosecution for matrimonial offences is not maintainable.

8. It is thus submitted that in the absence of a valid marriage, specific allegations of cruelty, or any material indicating harassment by the petitioners, the essential ingredients of Section 85 of the Bharatiya Nyaya Sanhita, 2023 are not made out. Continuation of the criminal proceedings against the petitioners would therefore result in grave miscarriage of justice and deserves to be quashed in exercise of the inherent jurisdiction of this Court.

9. Learned counsel for the state have supported the impugned order taking cognizance that the Court below after considering all the materials against the petitioners took cognizance under Sections 85, 115(2), 118(1), 191(2) of the Bharatiya Nyaya Sanhita, 2023.



10. At the outset, this Court has carefully considered the rival submissions and perused the materials placed on record. The jurisdiction invoked under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is undoubtedly extraordinary in nature; however, it is equally well settled that such jurisdiction must be exercised to prevent abuse of the process of law and to secure the ends of justice.

11. On a plain reading of the complaint and the statements recorded during enquiry, this Court finds that the allegations levelled against the petitioners, who are relatives of the husband, are largely vague, omnibus, and generalized in nature. Except for a broad narrative alleging harassment, the complaint does not attribute any specific role, overt act, or distinct instance of cruelty to any of the petitioners. The absence of material particulars assumes significance, particularly in matrimonial disputes where the tendency to implicate the entire family has been judicially noticed and deprecated.

12. In *Preeti Gupta and Another v. State of Jharkhand and Another, (2010) 7 SCC 667*, the Hon'ble Supreme Court, while dealing with a similar fact situation, expressed serious concern over the growing misuse of matrimonial provisions by roping in distant and uninvolved



relatives on the basis of exaggerated and sweeping allegations. The Apex Court held that criminal law should not be permitted to be used as a weapon of harassment and that courts must be cautious and circumspect while dealing with such complaints. Applying the ratio of the said judgment, this Court finds that the allegations in the present case lack the requisite specificity to justify continuation of criminal proceedings against the petitioners.

13. A further crucial and undisputed aspect of the case is the categorical admission of the complainant that she had been residing separately from the petitioners for nearly three years and had never shared a household with them. This admission strikes at the very root of the allegation of cruelty. Cruelty, in the context of matrimonial offences, presupposes a degree of proximity, interaction, or cohabitation that enables harassment or ill-treatment. In the absence of any shared residence or meaningful interaction, the allegation of cruelty by the in-laws becomes inherently improbable. The admitted factual position, therefore, does not disclose any circumstance giving rise to cruelty attributable to the petitioners.

14. The only allegation with some degree of specificity is against petitioner no. 2, namely, Shivam Kumar,



alleging an attempt to press the neck of the complainant. However, this allegation is conspicuously unsupported by any medical evidence or contemporaneous record. No injury report, hospital document, or independent corroboration has been produced. More importantly, this allegation does not find mention in the initial complaint and has surfaced for the first time during the enquiry through a witness statement. Such an improvement, in the absence of supporting material, renders the allegation doubtful and insufficient to sustain criminal prosecution.

15. This Court also finds substantial merit in the submission that the very foundation of the prosecution is legally unsustainable. It is an admitted position that the complainant was previously married and has a minor child from the said marriage. No decree of divorce dissolving the earlier marriage has been placed on record. In the absence of dissolution of the subsisting marriage, the alleged subsequent marriage with accused Sumit Kumar is void-ab-initio in the eyes of law.

16. The Hon'ble Supreme Court in ***Dolly Rani v. Manish Kumar Chanchal, (2025) 2 SCC 587***, has categorically held that the existence of a legally valid and subsisting marriage is a sine qua non for invoking matrimonial offences. The Court



clarified that where the marriage itself is void or legally non-existent, the very basis for prosecution under matrimonial provisions collapses. In the present case, therefore, the absence of a valid marriage strikes at the root of the prosecution.

17. Section 85 of the Bharatiya Nyaya Sanhita, 2023 requires the coexistence of two essential ingredients: first, a legally valid marital relationship; and second, cruelty arising out of such relationship. This Court finds that neither of these ingredients is satisfied in the present case.

18. In *Achin Gupta v. State of Haryana and Another, (2025) 3 SCC*, the Hon'ble Supreme Court reiterated that criminal prosecution in matrimonial disputes cannot be permitted to continue where allegations are general, unsupported by material evidence, and disclose no active involvement of the accused. The Court emphasized that criminal law should not be used as a tool of pressure or harassment.

19. Similarly, in *Rajesh Sharma and Others v. State of Uttar Pradesh and Another, (2018) 10 SCC 472*, the Hon'ble Supreme Court acknowledged the rampant misuse of Section 498A of the Indian Penal Code and underscored the duty of courts to prevent unnecessary prosecution of relatives of the husband, particularly when allegations are bald and



unsubstantiated.

20. Further, the case squarely falls within the parameters laid down by the Hon'ble Supreme Court in ***State of Haryana and Others v. Bhajan Lal and Others, 1992 Supp (1) SCC 335***. The present matter clearly attracts the illustrative categories carved out therein, particularly where the allegations, even if taken at face value, do not disclose the essential ingredients of the alleged offence and are manifestly attended with *mala fide* and abuse of the process of law. Continuation of the prosecution, in such circumstances, would serve no legitimate purpose.

21. This Court is conscious of the settled principle that criminal proceedings ought not to be quashed at the threshold in a routine manner. However, where the allegations do not disclose the commission of any offence, the prosecution is founded on legally untenable grounds, and continuation of proceedings would amount to abuse of the process of law, interference by this Court becomes not only permissible but imperative.

22. In view of the foregoing discussion, this Court is of the considered opinion that the impugned order of cognizance suffers from non-application of mind and that



continuation of the criminal proceedings against the petitioners would result in grave miscarriage of justice.

23. Accordingly, the petition is allowed.

**(Rudra Prakash Mishra, J)**

Rajorshi/-

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