



2025:DHC:7997



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 7th August, 2025***

+ CRL.M.C. 5704/2022 and CRL.M.A. 22477/2022
RAJ KAMAL YADAV & ANR.Petitioners

Through: Mr. Amit Kumar and Ms.
Khushboo Sharma, Advocates.

versus

SMT. MANJU YADAVRespondent

Through: Mohd. Umar, Advocate.

+ CRL.M.C. 3045/2023 and CRL.M.A. 11458/2023
RAJVEER SINGH YADAV & ANR.Petitioners

Through: Mr. Amit Kumar and Ms.
Khushboo Sharma, Advocates.

versus

SMT. MANJU YADAVRespondent

Through: Mohd. Umar, Advocate

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ARUN MONGA, J. (ORAL)

1. *Lis* in hand arises out of matrimonial dispute. The respondent/wife having fallen out with her husband (Harish Yadav), due to persistent acrimony, has chosen to drag the petitioners, who are her husband's cousin (*Phuphera bhai*) and uncles (*Mausas*). She alleges that they travelled all the way from Bijnor and Moradabad



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(where they reside) to Ghaziabad/ Delhi (NCR) to literally “arm twist” her, committed physical assault (punched and kicked) thus causing a minor injury which led to her pressing the charges, *inter alia*, under section 323 of the IPC. Though, initially a police complaint was filed, but no cognizance was taken to register an FIR. Not to be undone, she invoked Section 200 CrPC by filing a common private criminal complaint wherein impugned summoning order dated 04.06.2019 was passed by learned Metropolitan Magistrate against the petitioners. More of it in better details later, at appropriate stage.

2. Vide this common order both the above tilted petitions are being disposed of as similar issues and facts are involved therein.

3. Petitioners (four of them) in both the petitions have same prayer i.e. quash the Complaint case no. 3079/2016 as well as proceedings arising there from pending in the Court of learned Metropolitan Magistrate, Tis Hazari Court, Delhi, as well as, quash summoning order dated 04.06.2019. Assailed herein is also an order dated 28.07.2022 passed by learned Session Judge whereby Criminal Revision No. 55/2020 challenging the summoning order was dismissed.

4. As noted, two of the petitioners are cousin brothers and the other two are uncles (*Mausas*) of Harish Yadav, husband of the respondent. Marriage between the couple took place on 07.02.2010 at Ghaziabad, U.P. Differences arose soon leading to Harish Yadav filing an application on 22.11.2012 under Section 156(3) read with Section 200 CrPC before the District Court, Amroha, U.P., against his wife/respondent and one Satya Prakash Yadav, alleging offences



under Sections 493, 397, 498, and 494 IPC. Meanwhile, the respondent had also filed a divorce petition before the Tis Hazari Court, which was dismissed on merits on 18.12.2012.

5. Thereafter, the respondent lodged a police complaint dated 18.12.2012, in Delhi against Harish Yadav (husband), Mangal Singh Yadav (father-in-law), Moorti Devi (mother-in-law), Kusum Lata and Chander Pal with reference to alleged incidents dated 17.12.2012 and 18.12.2012.

6. On 21.05.2013, respondent filed another police complaint against Harish Yadav, Mangal Singh, and the present petitioners, namely; Rajkamal Yadav, Kavendra Singh (written as Kamender), Rajveer Singh Yadav, and Ajayveer Singh (written as Ajay Yadav) which didn't yield any result.

7. Thereafter respondent filed impugned private Complaint under Section 200 CrPC dated 22.07.2013 for the alleged offences punishable under Sections 354, 326, 506, 452, 120B of the IPC.

8. Petitioners assert that allegations in the complaint, *ibid*, are vague, omnibus, and devoid of any specific role attributed to them. Notwithstanding, on 20.05.2014, the Learned Metropolitan Magistrate, though dismissed the respondent's application under Section 156(3) CrPC, but directed the recording of pre-summoning evidence.

9. Subsequently, *vide* impugned order dated 04.06.2019, the Learned MM summoned all the accused persons, including the petitioners, for offences under Sections 452, 323, and 341 read with Section 34 IPC, even though, as asserted by the petitioners, they were



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neither named in the police complaint dated 18.12.2012 nor any specific details *qua* role attributed to them were given, other than vague and omnibus allegations.

10. Aggrieved, the petitioners filed a joint revision petition, which was dismissed by the Learned Sessions Court on 28.07.2022. Hence the two petitions herein.

11. In the aforesaid backdrop I have heard the rival contentions and perused the case file including the orders under challenge herein.

12. Learned counsel for the petitioners submits that the though petitioners are the relatives of the respondent's husband, but they reside separately from Harish Yadav and his wife/respondent and have never been involved in their marital life. However, the respondent has falsely implicated them in the present case with mala fide intent to harass and exert pressure.

12.1 It is pointed out that in the first complaint dated 18.12.2012 lodged with Delhi Police, the petitioners were neither named nor accused of any act. Their casual inclusion surfaced five months later in the complaint dated 21.05.2013 filed before U.P. Police, wherein vague and omnibus allegations without any evidence were levelled against them, which were later carried into her complaint case.

12.2 The impugned proceedings, it is urged, are manifestly tainted with mala fide, malice and ulterior motives to wreak vengeance on Harish Yadav and his family and amount to abuse of process of law.

12.3 Learned Counsel stresses that in matrimonial disputes there is an increasing tendency to implicate all family members, but mere casual reference to relatives without any specific allegation of active



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involvement cannot justify cognizance against them. Despite this, the Courts below failed to appreciate that the petitioners were not named in the first complaint and were not assigned any role even in the second complaint, which rested only on vague assertions. Their involvement is nothing more than a casual inclusion, and continuance of proceedings against them would amount to a complete abuse of process of law. Hence, the extraordinary jurisdiction under Section 482 CrPC is invoked to secure the ends of justice. Reliance is placed on *Geeta Mehrotra & Anr. v. State of U.P. & Anr*¹, *Chandralekha & Ors. v. State of Rajasthan & Anr.*², *Neelu Chopra & Anr. v. Bharti*³, and *State of Haryana v. Bhajan Lal*⁴, to contend that vague and general allegations against relatives in matrimonial disputes cannot form the basis of prosecution.

12.4 It is further submitted that indiscriminate false implication of relatives, if left unchecked, results in gross misuse of law; the petitioners, who are merely cousins and uncles of the husband, have been dragged into litigation without any specific act/ role attributed to them and are now being compelled to face trial, which itself is a hardship even if it ultimately results in acquittal. In view of the principles laid down in *Bhajan Lal*⁵, the petition is maintainable, with all the interconnected prayers to prevent multiplicity of proceedings.

13. Opposing these submissions, learned counsel for the respondent would contend that the petition under Section 482 CrPC [Section 528

¹ (2012) 10 SCC 741

² 2013 AIR SCW 3651

³ (2009) 10 SCC 184

⁴ 1992 SUPP (1) SCC 335



BNSS, 2023] is not maintainable, as the inherent powers of this Court cannot be exercised to override an express statutory bar, including the prohibition under Section 397(3) CrPC [Section 438(3) BNSS, 2023], which bars a second revision. Reliance is placed on *Rajan Kumar Machananda v. State of Karnataka*⁶, *State of Punjab v. Davinder Pal Singh Bhullar*⁷, and *Alka v. State & Ors.*⁸, where it was held that Section 482 petitions cannot be used to camouflage or circumvent the bar against a second revision. Inherent powers, it is argued, are confined to preventing abuse of process and securing the ends of justice only where no other remedy exists and no statutory prohibition applies.

13.1 Learned counsel for the respondent submits that the petitioners have failed to establish that invocation of inherent jurisdiction is essential to secure justice or prevent abuse, particularly since the Sessions Court in its order dated 28.07.2022 already observed that the petitioners may confront the respondent with her prior statements during cross-examination, thus leaving them with adequate remedies.

13.2 It is further pointed out that the petitioners have made false submissions in Ground B of their petition by suppressing material facts, as they were specifically named in the second complaint dated 21.05.2013 regarding the incident of 19.05.2013, being identified as accused nos. 5 and 6, though they were not named in the first complaint dated 18.12.2012, which related only to incidents of

⁵ Supra note at 4.

⁶ 1990 SUPP (1) SCC 132

⁷ 2011 (14) SCC 770

⁸ 2011 (14) SCC 770



17.12.2012 and 18.12.2012. The respondent's complaint under Section 200 CrPC [Section 223 BNSS, 2023] clearly distinguished both sets of incidents. Though no allegations were made against the petitioners for the first incident, but specific allegations were made against them for the second. Hence, it is incorrect to contend that their implication was an afterthought.

13.3 Accordingly, the present petition is described by the learned counsel for the respondent as an attempt to evade due process, amounting to forum shopping and obstruction of justice. Therefore, it is liable to be dismissed at the threshold as not maintainable, is the contention.

14. I shall now proceed to render my opinion with the reasons recorded here in after.

15. First and foremost, it may be noted that the allegation of “arm twisting” the respondent by the petitioners is a fine piece of irony. In fact, if anyone is twisting arms here, it is the respondent herself. Of course, not in the literal sense she claims, but in the far more creative, metaphorical sense of using the criminal process as her personal pressure lever. The oblique motive is hardly a guess i.e. it is either to extract what she calls “maintenance,” which her husband has not paid, or to drag the petitioners all the way from Bijnor to Delhi, making them undergo the harassment and humiliation, until her husband succumbs to her demands on the dotted lines. The reasons are not far to seek as they are lying in plain sight. Let us examine how.

16. Before proceeding further, reference may be had to the



complaint dated 18.12.2012 (Annexure P-1) filed before the Police, which is the first point of reference by the respondent of having levelled the allegations attracting Section 323 of IPC, relevant extract thereof reads as under:-

“That thereafter, the complainant filed a divorce petition before the Hon'ble Distt Judge, which is pending in the court of Sh. R.P. Singh, ADJ, West Delhi and next date of hearing is 02.01.2013.

That on 17.12.2012 at about 7.00 a.m. the complainant was had gone to meet with one Sh. Satya Prakash, who is relative, at FB-154, Lajpat Nagar, Sahibabad, Ghaziabad, U.P., suddenly the accused no. 1 to 5 reached there and they gave merciless beating to the complainant and the said Mr. Satya Prakash, thereafter, the complainant called the police and the police of P.S. Sahibabad, Ghaziabad instead of taking legal action against the accused persons registered a false kalandra u/s 107/151 Cr.P.C against the accused no. 1 & 2 and Mr. Satya Prakash.

That on 18.12.2012 at about 7.00 a.m. all the accused persons came to the house of the complainant at WZ-796, Navyug Block, Vishnu Garden Tilak Nagar, New Delhi and they forcibly entered in the house and gave merciless beating to the Complainant with fists and kicks and the accused no. 1 to 5 threatened to kill the complainant and the said Satya Prakash, if the complainant will not withdraw her abovesaid petition for divorce.”

17. The accused no.1 to 5 named in the above police complaint are Harish Yadav, Mangal Singh Yadav, Moorti Devi, Kusum Lata and Chander Pal. None of the petitioners is named therein. A bare perusal of the above makes it abundantly clear that there is not even a whisper of any role attributed to the petitioners, nor any suggestion that they were present at the scene, much less that they caused injury or instigated those who allegedly did during the incident of 18.12.2012. On this ground alone, the belated attempt to drag the petitioners into the proceedings through a subsequent complaint under Section 200 CrPC *qua* the same incident of 18.12.2012 reeks of pure afterthought



on the part of the respondent.

18. The aforesaid complaint where Harish Yadav, Mangal Singh, Murti Devi, Ajay Yadav/AjayVeer Singh (Petitioner 2), Rajveer Singh (Petitioner 1) in CRL..MC No.3045/2023, Rajkamal Yadav (Petitioner 1) and Kamender/Kavendra Singh (Petitioner 2) in CRL.MC No.5704/2022 are arrayed as respondents no.1 to 7, may also be seen at this stage which reads as under :-

“1. That the complainant is peace loving and law abiding citizen of India and residing at the above mentioned address.

2. That the marriage of the complainant was solemnized with accused No.1 on 07.02.2010 according to Hindu Rites and ceremonies at Arya Samaj Mandir, Ghaziabad and the complainant was divorcee at the time of marriage with accused No.1.

3. That that the parents of the complainant gave gifts, Gold ornaments, household articles and cash to accused No.1, 2 and 3, but accused No.1,2 and 3 were not satisfied with the dowry.

4. That after solemnization of marriage complainant was first taken to Amroha along with all gold ornaments, istridhan, expensive clothes and cash etc. the initial matrimonial home of the complainant where complainant and accused No.1 alongwith accused No.2 and 3 lived together for only two days and thereafter complainant and accused no.1 moved to E-71 Vishnu Garden New Delhi 110018 which was rented accommodation of the parents of the complainant but accused No.1 before moving to E-71 insisted the complainant not to take her gold ornaments, istridhan, expensive clothes, cash etc as they would have to return back to Amroha which in reality never material-zed. While living in E-71 complainant came to know about impotency and divorcee status of accused No.1 which was concealed from the complainant at the time of marriage.

5. That the complainant was in regular touch with accused No.1 on phone to settle her married life. The complainant regularly requested accused No.1 to avail medical treatment but respondent was adamant for not getting the treatment. At that time the complainant was residing at E-71, Vishna Garden, New Delhi-18 in a rented accommodation with her parents and respondent who was living in the capacity of Gharjamai and thereafter, accused No.1 deserted the complainant without any rhyme and reason.

6. That the complainant remained in touch with accused No.1 and then accused no.1 started saying to the complainant that he wants to own a house at Delhi for which mausaji of accused No.1 agreed to



offer financial help to the respondent. Thereafter accused No. 1 started searching for a suitable accommodation and in between respondent went to Botswana South Africa for job and in his absence, the complainant started looking for a suitable house and when the complainant found the suitable house she telephonically talked with accused No.1 and the respondent advised her to talk with the Mausaji and the complainant gave the Bayana and also exhausted all her savings from the job and purchased a house at Vishnu Garden, New Delhi but accused No.1 refused to contribute remaining payment apart from contributed by the complainant and then his mausaji the responsibility to clear the dues of the purchased house. It is pertinent to mention here that at the time of executing the sale documents inadvertently the name of husband of complainant was erringly typed as Satya Prakash instead of respondent's name.

7. That on 17/12/2012 at about 7.00 a.m. the complainant had gone to meet the Mausaji Satya Prakash at FB-154 Lajpat Nagar, Sahibabad, Ghaziabad, U.P., the accused no. 1, 2 and 3 along with other goonda's reached there and they gave mercilessly beating to the complainant and Mausaji. thereafter the complainant called the police of Sahibabad, Ghaziabad. U.P. and the police officials of concerned police station instead of taking any legal action against the accused persons registered a kalandra u/s 107/151 CrPc instead of registering the FIR.

8. That again on 18/12/2012 the accused No. 1,2 and 3 came to the house of the complainant and entered forcefully and gave mercilessly beatings to the complainant with kicks and fists and also threatened the complainant to withdraw the Divorce petition filed by the complainant.

Due to this incident and defamatory language used by the accused per-sons, the image of the complainant and her family members was tarnished before the society. The accused persons also threatened to kill the complainant and Satya Prakash.

9. That on 19/5/2013 a family meeting was organized at Ghaziabad in the presence of relatives to resolve the issue but all the accused persons started misbehaving, fighting and abusing the complainant and her family members. When the behavior of the accused persons became more aggressive and abusive the Ghaziabad police was called but the police officials refused to initiate any action against the accused persons.

10 **The accused persons have committed extreme atrocities upon the complainant and her family members. Accused No. 4,5,6 and 7 also verbally and physically abused the complainant in such a violent and cruel manner that for many days the complainant and her family members remained in shock and fear. Accused No. 4,5,6 and 7 also used obscene language which the complainant even**



hesitates to speak. These accused persons also gave serious injury to the complainant and her mother but the police never bothered to register the case. The accused persons even entered the house of the complainant without the consent of complainant and her family members. These accused persons have in utter disregard of law and order hatched the conspiracy against the complainant and her family members and even implicated the complainant and Mausaji Satya Prakash in a false criminal case u/s 494 IPC. The complainant has been shattered by the atrocities committed by the accused persons and approaching this Hon'ble court after the police failed to provide justice to the complainant and her family members. Accused persons are regularly threatening the complainant and her family and they are living in constant fear.

11. That the complainant made several complaints till now but the concerned authorities never initiated any action against the accused persons. Copies of those complains are attached herewith with the present complaint.

12. **That the illegal acts and offences of the accused No. 1 to 4 comes under the category of sections 354/326/506/452/120-B IPC for which they are liable to be punished as per law as the accused persons in furtherance of their common intention committed atrocities of extreme cruel nature upon the complainant and her family members.**

13 That since the accused persons above named have committed prima-facie the above offences as mentioned hereinbefore, thus they rendered themselves liable for prosecution and punishment in accordance with law, hence the complainant is having no efficacious remedy available to her except to file the present complaint before this Hon'ble Court.

14 That the complainant before coming to this Hon'ble court has exhausted all her remedies but to no avail. The complainant lodged many complaints and reminders but the concerned police officials did not initiated any action against the accused persons, hence the present complaint.

15 That the complainant is residing within the jurisdiction of this Hon'ble Court and offence is also committed within the jurisdiction of the Hon'ble Court, hence this hon'ble Court has jurisdiction to try and entertain the present complaint.

It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased.

- i) To summon the accused persons above named, they be tried and punished for committing the offences punishable U/s 354/326/506/452/120-B IPC, in the interest of justice.



- ii) *To pass any other or further order/directions which this Hon'ble Court deem fit and proper in the facts and circumstances of the case, in the interest of justice.”*
(emphasis supplied)

19. Para 10, as highlighted, pertains to the alleged acts of assault and role attributed to the four petitioners herein, but yet in para 12 the respondent seeks action only against the accused no.1 to 4. Be that as it may, on going through the above, what makes the matter even more questionable is that when the complaint reached the learned Magistrate, not a shred of independent proof was forthcoming in the preliminary evidence to establish that any injury was ever caused. The sole material was the complainant's self-serving proclamation that she suffered a “minor injury” supposedly inflicted by the petitioners during a scuffle. To bolster this fragile claim, three witnesses were conveniently produced, none other than her mother, father and sister.

20. Significantly, it is not even the respondent's case that her parents and sister were present during the alleged incident. Surprisingly, their depositions have not been placed on record. It is obvious that their evidence, therefore, is nothing but hearsay, dressed up as testimony. It may be reasonably presumed that far from being independent, they merely echoed the complainant's version, word for word, as dictated and their testimony has minimal probative value.

21. Furthermore, I am in agreement with the arguments addressed by learned counsel for the petitioner which are on the lines of the written submissions submitted by him, especially the assertion that, on the basis of the impugned summoning order dated 04.06.2019 [Annexure-5 at Page 45 of the paper book] belatedly passed in the



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private complaint case no. 3079/2016, the petitioners are being prosecuted for the alleged incident of 18.12.2012; that the petitioners' names do not figure in the initial report dated 18.12.2012 [Annexure-1 at Page 25] lodged with the police regarding the same incident; and their subsequent inclusion in the private complaint filed in court is nothing but a malicious afterthought, engineered to falsely implicate them and drag them into proceedings in which they had no role whatsoever.

22. The petitioners' case is unambiguous: they are distant relatives of Harish Yadav, the respondent's husband, and have no role whatsoever in the matrimonial discord of the couple. The record itself exposes the respondent's *mala fides*. Her husband Harish Yadav had earlier filed proceedings under Sections 156(3)/200 Cr.P.C. in Amroha, U.P. against the respondent. The respondent's own divorce petition was dismissed on merits on 18.12.2012. Thereafter, she lodged successive complaints, first in Delhi against her husband and in-laws, and later on 21.05.2013, she for the first time introduced the petitioners' names in a vague and omnibus manner without attributing any specific role to them.

23. This belated addition/introduction of the petitioners, without a shred of independent evidence, is nothing but an afterthought to rope in more relatives. In the first complaint dated 18.12.2012, there is not even a whisper of the petitioners' presence or involvement. The belated attempt to implicate them five months later betrays her ulterior motive of exerting extraneous pressure. The testimony of the respondent's mother and sister, who interested witnesses and were not



present at the time of incident is pure hearsay and cannot be given much credence.

24. The law on this is settled. In *State of Haryana v. Bhajan Lal*⁹, the Supreme Court carved out categories where criminal proceedings amount to abuse of process. Vague and omnibus allegations against distant relatives in matrimonial disputes fall squarely within those categories. Similarly, in *Geeta Mehrotra & Anr. v. State of U.P. & Anr*¹⁰, *Chandralekha & Ors. v. State of Rajasthan & Anr*¹¹, and *Neelu Chopra & Anr. v. Bharti*¹², the Apex Court held that prosecution cannot be permitted on such casual references. Most recently, in *Dara Lakshmi Narayana v. State of Telangana*¹³, the Supreme Court again flagged the growing misuse of criminal law to harass the husband's relatives.

25. The contention of the respondent's counsel that the petition is barred as a "second revision" is equally misconceived. True it is that Section 397(3) CrPC (now Section 438(3) BNSS, 2023) places a statutory bar against a second revision, but it is equally trite that this bar does not eclipse the inherent powers of this Court under Section 482 CrPC (now Section 528 BNSS, 2023). Where palpable illegality is writ large, this Court is duty-bound to step in to prevent abuse of process of Court. The summoning of the petitioners in the private complaint filed in court for their alleged role, without attributing any

⁹ Supra note at 4.

¹⁰ Supra note at 1.

¹¹ Supra note at 2.

¹² Supra note at 3.

¹³ (SLP (CrI) No. 16239/2024, decided 10.12.2024)



specific criminal act to them, in the incident dated 18.12.2012, despite their having not been named in the initial police report of the same incident dated 18.12.2012 is precisely such a patent illegality.

26. It is thus plain that the proceedings against the petitioners are malicious, vexatious and intended not to seek justice but to arm-twist them into submission. They have been made to undergo the rigours of a criminal trial without any foundation. This Court cannot allow its machinery to be used for such extraneous purposes.

27. Accordingly, the summoning order dated 04.06.2019, insofar as it relates to the petitioners, is quashed. The trial shall proceed against the other accused in accordance with law.

28. Before parting, I cannot but note the rather desperate attempt of the respondent's leaned counsel to dissuade this Court from exercising jurisdiction, on the specious plea of statutory bar. The argument, though dressed in attractive garb, does not withstand scrutiny. It reminds one of the age-old courtroom maxim: *"if you have the facts, hammer the facts; if you have the law, hammer the law; if you have neither, hammer the desk"*. Unfortunately for the respondent, in this case, facts do not support her, law does not sustain her case and desk-thumping cannot rescue her. On all three counts, the respondent fails.

29. As an upshot, I do not find any substance or material to justify the impugned summoning order and on its basis the continuance of criminal proceedings against the petitioners. Accordingly, the impugned summoning order and the consequential criminal proceedings qua the petitioners are quashed. Trial to proceed qua the other accused in accordance with law.



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30. Both the petitions are thus allowed.

ARUN MONGA, J

AUGUST 7, 2025/kd