

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.298 of 2016

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1. Phool Kumari Bhagat @ Phool Kumari Devi, wife of Bhulan Pd. Bhagat
 2. Bhulan Pd. Bhagat, son of Late Lakshmi Ram Bhagat
 3. Pritam Kumar Bhagat, son of Bhulan Kumar Bhagat
 4. Kalpana Bhagat @ Kiran Bhagat, wife of Pritam Bhagat
- All resident of village Bhagat Para, Police Station and District Pakur (Jharkhand)
5. Seema Devi @ Seema Kumari, wife of Sanjay Kumar Bhagat
 6. Sanjay Kumar Bhagat, son of Late Bindeshwar Prasad Bhagat
- 5 and 6 are resident of Mohalla Harin Donga Bazar, Police Station and District Pakur (Jharkhand)

.... Petitioner/s

Versus

1. The State of Bihar Through Director General of Police, Govt. of Bihar, Patna
2. Priyanka Bhagat @ Priyanka Prakash, daughter of Om Prakash Bhagat, resident of Mohalla Anandmae Kjoja Imalee, Police Station Phulwarisharif, district Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pravin Kumar Sinha
Mr. S. C. Giri

For the Respondent/s : Mr. Abbas Haidar, SC 16
Mr. Ravish Chandra, AC to SC 16

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER**

3 09-08-2016 Heard learned Counsel for the petitioners and learned Counsel appearing on behalf of the State respondents.

This application has been filed seeking quashing of prosecution against the petitioners, arising out of Patna Mahila Police Station Case No. 51 of 2015, disclosing offences punishable under Sections 498A, 468, 504 read with Section 34 of the Indian Penal Code.

The petitioner no. 2 is father-in-law of the informant; whereas, petitioner no. 1 is her mother-in-law. Other petitioners are family members of the husband of the informant.

Learned Counsel appearing on behalf of the petitioners submits that implication of In-laws in cases under Section 498A of the Indian Penal Code without any substance has become tendency in the society. He has submitted that the said provision of the Indian Penal Code is being more abused than properly used. He has also submitted, referring to the First Information Report, that allegation against the In-laws are totally vague and this Court, in exercise of inherent power under Articles 226 and 227 of the Constitution of India, may interfere, at this stage itself by quashing the First Information Report.

He has placed reliance on Supreme Court's decision, in the case of **Preeti Gupta and Another v. State of Jharkhand and Another**, reported in **2010 (7) SCC 667**, and another decision of this Court, in the case of **Ajay Kumar Chaudhary and Others v. State of Bihar and Others**, reported in **2014 (3) PLJR 263**, in support of his contention.

It seems that the investigation by the police into the case is still not complete. This Court, in **Ajay Kumar**



Chaudhary (supra), interfered with the order taking cognizance in the facts and circumstances of that case, since there was nothing more than vague and general allegation against the petitioners of that case. Since, investigation into the allegations made in this case, is not complete, I find it difficult to arrive at a conclusion that there is absolutely no material on the basis of which even cognizance could be taken.

So far as the Supreme Court's decision, in **Preeti Gupta** (supra), is concerned, though the Supreme Court has taken note of tendency of implicating husband and all his immediate relations in cases under Section 498A of the Indian Penal Code, but, at the same time, it has not been held that on the ground of vagueness of allegation against the relatives of the husband, the First Information Report itself should be quashed. Further, in that case, the husband's close relatives were found to be living in different cities, who had never visited or rarely visited the place where the complainant had been residing.

Considering the above, I do not find it proper to quash the First Information Report on the basis of submissions, so advanced on behalf of the petitioners.

It goes without saying that the petitioners shall have liberty to question the order taking cognizance, if any

such order is passed by the Court of competent jurisdiction, after filing of the charge sheet or otherwise. The petitioners shall also be at liberty to seek recourse to Section 227 of the Code of Criminal Procedure, 1973.

With the above observations, this application stands disposed of.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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