

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37583 of 2013

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1. Md. Sakoor S/O Late Ali Hussadin Resident Of Village- Bahuara Arban, Police Station- Kalyanpur, District-East Champaran.
 2. Naimul Khatoon W/O Md. Sakoor Resident Of Village- Bahuara Arban, Police Station- Kalyanpur, District-East Champaran.
 3. Md. Nasim S/O Md. Sakoor Resident Of Village- Bahuara Arban, Police Station- Kalyanpur, District-East Champaran.
 4. Zilekha Khatoon D/O Md. Sakoor Resident Of Village- Bahuara Arban, Police Station- Kalyanpur, District-East Champaran.
 5. Md. Kuddus S/O Md. Sakoor Resident Of Village- Bahuara Arban, Police Station- Kalyanpur, District-East Champaran.
 6. Md. Samiullah S/O Md. Sakoor Resident Of Village- Bahuara Arban, Police Station- Kalyanpur, District-East Champaran.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Tabassum Khatoon W/O Md. Samiullah And D/O Md. Anish At Present Residing At Village- Nagwa, Police Station- Paroo, District- Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Alok Kumar Alok, Adv. Mr. Manmohan Kumar, Adv.
For the O.P. No.2	:	Mr. Rajeev Ranjan No.II, Adv.
For the State	:	Mr. M.K. Nirala, APP

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

6 14-09-2016 Heard learned counsel for the petitioners and counsel for the State.

In this case, the petitioners are challenging the order of discharge dated 31.3.2011, whereby and whereunder, the Court has refused to discharge the petitioners which is subject matter for consideration.

The petitioner no.1 is the father-in-law, petitioner no.2 is



the mother-in-law, petitioner no.3 is the brother-in-law, petitioner no.4 is the sister-in-law, petitioner no.5 is the brother-in-law and petitioner no.6 is the husband. Learned counsel for the petitioners submits that general and omnibus allegation has been made accused the petitioners and all the family members have been made party in this case who have nothing to do with the affair of the petitioner no.6 and the opposite party no.2.

From the complaint petition, it appears that the marriage in terms of Mohammdan law was solemnized on 7.6.2008, at the time of marriage, the father of the opposite party no.2 had given Rs. 1,51,000/-, ornaments of Rs. 75,000, cloths of Rs. 30,000/-, furniture of Rs. 15,000/- and Rs. 40,000/- was incurred in the marriage. After marriage, the opposite party no.2 went to her matrimonial house and there the accused persons started mental and physical torture for the opposite party no.2 for motorcycle. An allegation has been made that they have assaulted the opposite party no.2 mercilessly and she was ousted from the house.

Already a case is pending before the Sub Divisional Officer, West and, thereafter, the Complainant was lured and was brought to the matrimonial house. So long as the case was pending, the opposite party no.2 was kept properly and the day the case was closed, they returned to the original posture, started



assaulting and demanding motorcycle. Somehow, the opposite party no.2 conveyed the behavior of the petitioners to her father, when the father had gone to meet with the opposite party no.2, they have badly behaved with him and asked him that he can be allowed to meet his daughter/opposite party no.2 subject to payment of Rs. 25,000/-. The father was very apprehensive and through his nephew, namely, Md. Eqbal and a villager, namely, Md. Subhat sent Rs. 10,000/- and on next day when they asked to the husband of the opposite party no.2 to allow the opposite party no.2 to go with them to her Maika, by playing fraud and conspiracy, the husband of the petitioner no.2 obtained thumb impression of Md. Eqbal and also of Md. Subhat in a Stamp Paper of Rs. 100 and asked them that he will take her to the Maika in the evening. Thereafter, the opposite party no.2 was assaulted mercilessly and she became unconscious and then the accused nos.1, 2 and 4 brought the opposite party no.2 in her village in an unconscious condition dumped her and fled away from there.

From the First Information Report, it appears that there is no specific allegation against the petitioner nos. 3, 4 & 5 who are brothers-in-law and sister-in-law having no direct connection with the opposite party no.2. Now it has become a habit to unnecessary implead/implicate the entire family members in such

cases without considering the consequence of such implication. In the case of *Preeti Gupta & Anr. Vs. State of Jharkhand & Anr.* reported in *AIR 2010 SC 3363*, the Hon'ble Supreme Court has taken a judicial notice of the fact of implication of the entire family members unnecessary. It would be relevant to quote paragraph nos. 35 of the said judgment which reads as follows:-

"35. *The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law. We direct the Registry to send a copy of this judgment to the Law Commission and to the Union Law Secretary, Government of India who may place it before the Hon'ble Minister for Law & Justice to take appropriate steps in the larger interest of the society.*"

As there is no specific allegation against the petitioner nos. 3, 4 & 5, in that view of the matter, it would be unnecessary to drag them in the present case and to face incarceration of the

courts' proceeding.

In view of the aforesaid discussion, the order dated 31.3.2011 passed in Complaint Case No. 2011 of 2010 (Trial No. 1732 of 2013) is quashed to the extent of the aforesaid observation and the petitioners nos. 3, 4 & 5 will no longer be required to face the criminal trial and they are declared to be set free.

With the aforesaid observation and direction, this application is allowed to the extent indicated above.

(Shivaji Pandey, J)

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