

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.43874 of 2011**

Arising Out of PS.Case No. -37 Year- 2010 Thana -null District- PURNIA

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1. Anita Devi Wife Of Ravindra Yadav Resident Of Village - Uda Kishunganj, P.S.  
Uda Kishunganj, District - Madhepura

.... .... Petitioner/s

Versus

1. The State Of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Sanjeet Kumar, Adv.  
Mr. Piyush Anand, Adv.

For the Opposite Party/s : Mr. Durgesh Nandan, Adv.

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**

**ORAL JUDGMENT**

**Date: 21-11-2017**

Heard learned counsel for the petitioner and the  
State.

This application has been filed for quashing the  
impugned order dated 05-10-2010 passed by the learned Chief  
Judicial Magistrate, Purnea in Jalalgarh P.S. Case No. 37 of  
2010 by which, the learned Magistrate took cognizance against  
the petitioner for the offence under Sections-498(A), 323,  
307/34 of the Indian Penal Code and  $\frac{3}{4}$  of Dowry Prohibition  
Act.

It has been submitted that the petitioner is sister of  
father of the husband of the informant. There is general and  
omnibus allegation against this petitioner. Counsel for the



petitioner has submitted that earlier the other relations of husband of the informant have moved this court by filing Cr. Misc. No. 50469 of 2012 and the proceeding against all those petitioners were quashed. Counsel for the petitioner has submitted that trial against husband of the informant is going on.

The counsel for opposite party No. 2 has appeared and submitted that there is specific allegation against this petitioner.

Counter affidavit has been filed on behalf of opposite party No. 2 wherein it has been mentioned that this petitioner resides at Naihar. She makes interference in day-to-day affairs of the informant and her husband.

From the allegation made in the written report, this court finds that there is general and omnibus allegation against this petitioner. She is a distant relation of husband of the informant.

Counsel for the petitioner has relied upon a decision reported in **2013(1) PLJR SC 10 (Geeta Mehrotra & Anr. Vs State of U.P. & Anr.)** in which, the Hon'ble Apex Court held as follows:

*"Mere casual reference of the names of family*



*members in a matrimonial dispute without any allegation of their active involvement in the offence is not sufficient for taking cognizance, moreso, when tendency is to rope in entire family members in matrimonial disputes, proceeding is liable to be quashed”.*

Another decision was also relied upon by counsel for the petitioners reported in **2010(4) PLJR SC 36 (Preeti Gupta & Anr. Vs The State of Jharkhand & Ors.)** in which the Hon’ble Apex Court has held as follows:

*“ The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband’s close relations who had been living in different cities and never visited or rarely visited the place were entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection”.*

This court finds that there is general and omnibus



allegation against this petitioner. She is a distant relation of husband of the informant. She has no concern with the day-to-day affairs of the informant and her husband who are both doctors.

Therefore, the impugned order of taking cognizance dated 05-10-2010 passed in Jalalgarh P.S. Case No. 37 of 2010 along with the entire criminal proceeding against the petitioner is quashed.

This Cr. Misc. Application is ***allowed***.

**(Sanjay Priya, J)**

A.K.V./-

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