

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.13418 of 2015**

Arising Out of PS. Case No.-22 Year-2013 Thana- MAHILA P.S. District- Sheikhpura

1. Jaipal Marandi S/o Late Kanhu Marandi
2. Singa Devi@ Manjhli Devi W/o Jaipal Marandi
3. Rakesh Marandi @ Rakesh Kumar S/o Jaipal Marandi
4. Jageshwar Marandi S/o Late Kanhu Marandi.
5. Jayram Marandi @ Jay Kishore Marandi s/o Late Kanhu Marandi,  
All resident of Village- Narhatari, P.s- Phulidumar, District- Banka.
6. Sumar Lata Marandi D/o Jaipal Marandi, W/o Prithavi Chand Murmu
7. Prithavi Chand Murmu S/o Late Wishwnath Murmu Both r/o Village-  
Narayandhih, P.S- Chandandan, Distt- Banka.
8. Saloni Marandi @ Saloni Devi D/o jaipal Marandi W/o Munilal Soren
9. Munilal Soren S/o Babulal Soren r/o Village- Baratarh, P.S. and Distt.-  
Banka

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Nilam Kumari D/o Ganesh Hembrat resident of Mohalla- Makdumpur in  
front of Training School , P. S- Sheikhpura, District-Sheikhpura.

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Bipin Kumar, Advocate  
For the Opposite Party/s : Mr.Lalan Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**

**ORAL JUDGMENT**

**Date : 02-09-2019**

Heard learned counsel for the petitioners and  
learned Additional Public Prosecutor for the State. No one  
appears on behalf of Opposite Party No.2.

2. Petitioner Nos.1 and 2 withdrew their prayer.



Hence, their prayer stood dismissed as withdrawn by order dated 20.06.2019.

3. The petitioners are relations of the husband of Opposite Party No.2. They have challenged the order of cognizance dated 12.01.2015 passed in Sheikhpura Mahila P.S. Case No.22 of 2013 whereby the learned Court-below has taken cognizance against the husband of Opposite Party No.2 and others including the petitioners for offences under Sections 494/498A/504/506 of the Indian Penal Code.

4. Contention is that the real dispute is between the husband and the wife, for the reason that the wife suspects that the husband is carrying extra-marital relation; rather she has alleged that husband has entered a second marriage. However, allegation against the petitioners is general and omnibus of demand of dowry and torture for the same.

5. Learned counsel for the petitioners placed reliance on the case of **Preeti Gupta and another V. State of Jharkhand** reported in **(2010) 7 SCC 667** and submits that the Hon'ble Supreme Court has expressed concern on rapid increase of the matrimonial litigation especially the cases under Section 498A of the Indian Penal Code and over implication in large number of cases after deliberations. The present case is



also an example of over implication with general and omnibus allegation. As such, criminal prosecution of the petitioners amounts to an abuse of the process of the Court. The real dispute is of temperamental compatibility between the spouse.

6. Petitioner No.3 Rakesh Marandi is the younger brother of the husband of Opposite Party No.2. Petitioner No.4 Jageshwar Marandi and Petitioner No.5 Jayram Marandi @ Jay Kishore Marandi are cousin of the father-in-law of Opposite Party No.2. Petitioner No.6 Sumar Lata Marandi and petitioner No.8 Saloni Marandi @ Saloni Devi are married sisters of the husband of Opposite Party No.2 and they are married with petitioner No.7 Prithvi Chand Murmu and Petitioner No.9 Munilal Soren and they have stated on oath that since marriage they are living along with husband and not in the house and family of Opposite Party No.2. The cousins are also separate from them. No prior complaint is there against the aforesaid petitioners of demand of dowry and torture for the same nor there is any material on the record to substantiate that they are still having connection with the family of the husband of Opposite Party No.2.

7. On careful consideration of the averments in the FIR and the statement of the witnesses recorded by the police



during investigation, I find that there is no specific attribution against any of the petitioners; rather there is general and omnibus allegation of illegal demand of dowry and torture for the same against husband and the entire family including the petitioners. Observation of the Hon'ble Supreme Court in **Preeti Gupta's case** (supra) is being reproduced below:

*“35. 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 the 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 where the complainant resided would have an entirely different complexion. The allegations of the complainant are required to be scrutinized with great care and circumspection.*

*36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of an amicable settlement altogether. The process of suffering is extremely long and painful. ”*

8. Evidently, the attribution against the petitioners are general and omnibus and appears to be the result of deliberate over implication. As such, criminal prosecution of the petitioners is an abuse of the process of the Court, which cannot be allowed. Accordingly, the impugned order and entire criminal prosecution stands quashed.



7. Accordingly, the application stands allowed.

(Birendra Kumar, J)

Mkr./-

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