

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.45112 of 2017**

Arising Out of PS. Case No.-477 Year-2016 Thana- SAHARSA COMPLAINT CASE  
District- Saharsa

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1. Sheshant Kumar @ Sheshant Kumar Gupta
  2. Prashant Kumar @ Prashant Gupta Both are the son of Tarkeshwar Prasad Gupta
  3. Rina Gupta @ Sangeeta Gupta daughter of Tarkeshwar Prasad Gupta
  4. Tarkeshwar Prasad Gupta son of Late Ram Janam Prasad Gupta
  5. Rimee Gupta @ Mamta Gupta Wife of Sheshsant Kumar @ Sheshant Kumar Gupta
  6. Nilu Gupta @ Nilu Kumari wife of Prashant Kumar @ Prashant Gupta All are the residents of Shahi Colony, Road No. 3, P.S. Town Hajipur, District Hajipur at Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Neha Kumari wife of Chandan Kumar Gupta resident of Shahi Colony, Road No. 3, P.S. Town Hazipur, District Hazipur at Vaishali.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Anita Kumari Singh  
For the Opposite Party/s : Smt. Anita Kumari

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**CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI**  
**ORAL ORDER**

6      25-04-2019                      Heard learned counsel for the petitioners as well as  
  
learned Additional Public Prosecutor.

Needless to say that on account of matrimonial disharmony amongst the spouses namely complainant/ opposite party no.2, Neha Kumari and Chandan Kumar Gupta, who is not the petitioner, the matter gone to such extent, ultimately resulting institution of instant prosecution. Petitioner Nos.1 and 2 happen to be the brother-in-law of the complainant while petitioner no.3 is the Nanad, petitioner no.4 is the father-in-law and petitioner nos.5 and 6 happen to be the Gotini.



Every action has got a reaction, this happens to be the *Newton's theory* and in the aforesaid background, times without number, it has been pleaded at the end of the accused that other family members including husband are roped in revengeful manner. Considering the aim and object of the act, which has been implemented to give a shield to the victim, who as per custom, is forced to go to place of her husband (matrimonial place) not only for satisfying the carnal desire of her husband rather also deserves the pious post of mother on account of procreation became helpless, when she is tortured at that place, being alone away from her parents at the mercy of her sasuralwala, treating her as a milching cow and for that, she is being treated like anything. The aforesaid concept has even now been perceived, which betrays the concept of human development whereupon the prosecution has been allowed by the Hon'ble Apex Court at the place where the victim is forced to reside under the banner of ***Section 179 Cr.P.C.***, as after marriage, her sasural would be the natural place of stay. This happens to be the one face of the coin. The other face is that it should not be a gospel truth by having presence not only the family members rather kith and kin of the husband under the column of an accused that they are responsible for torture meted



out for procurement of dowry. The Hon'ble Apex Court had also considered the aforesaid issue in *Social Action Forum for Manav Adhikar and another vs. Union of India, Ministry of Law and Justice and others reported in (2018) 10 SCC 443*. Balancing the line, it has been observed at the end of the Hon'ble Apex Court that whenever there happens to be allegation in omnibus nature against others excluding the husband, then in that circumstance, the prosecution has to be quashed. In *Ramesh and others vs. State of T. N. reported in (2005) 3 SCC 507*, it has been held so. The same view still commands the field. In the aforesaid background, the learned counsel for the petitioners has been requested to trace out amongst the petitioners, who carries omnibus allegation and who carries specifically, whereupon learned counsel for the petitioners shown his inability on the other hand simply said that even carrying specific allegation, the same happens to be out of malice and grudge.

Gone through the record wherefrom, it is evident that only petitioner no.6, Nilu Gupta @ Nilu Kumari does not carry any kind of specific allegation. That being so, the order dated 28.07.2016 passed by the S.D.J.M., Saharsa in connection with Complaint Case No.477C of 2016 is hereby quashed, as a result



of which, petition to the extent of her interest is allowed.

So far remaining petitioners are concerned, considering the specific allegation, this petition is found untenable consequent thereupon, rejected.

**(Aditya Kumar Trivedi, J)**

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