

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.7266 of 2015**

Arising Out of PS. Case No.-1 Year-2014 Thana- MAHILA P.S. District- Saharsa

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1. Munna Kumar @ Kumodh Kumar and Ors son of Laloo Bhagat.
  2. Rinki Kumari@Saraswati Kumari D/o Laloo Bhagat.
  3. Laloo Bhagat@Lallan Bhagat son of Late Jamun Prasad Sah@Jaman Sah
  4. Shyam Kumar@Shyam Bhagat son of Laloo Bhagat  
All resident of Sulendabad, P.S. Saharsa District Saharsa.
- ... .. Petitioner/s

Versus

1. State of Bihar.
2. Nutan Devi@Sakshi Devi D/o Nepali Chaudhary , wife of Pappu Kumar Bhagat, resident of Sirodha Patti, Tola Navtoliya, P.S. District Saharsa.

... .. Opposite Party/s

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**Appearance :**

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| For the Petitioner/s     | : | Mr. Alok Kumar, Adv.<br>Mr. Neeraj Kumar, Adv. |
| For the Opposite Party/s | : | Mr. Nawal Kishore Pd. APP                      |

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL ORDER**

4      18-06-2019                      Heard learned counsel for the petitioners and counsel for the State.

In the present case, the petitioners are challenging the order taking cognizance dated 27.11.2014 passed by the learned Chief Judicial Magistrate, Saharsa in Mahila P.S. Case No. 01 of 2014 for offence under Section 498A, 323, 379/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

From the order-sheet, it appears that this Court had earlier issued notice upon the opposite party no.2 vide order dated 12.3.2015. As per report of the office, the notices have been served upon her but, even then, she has preferred to remain



absent.

In the present case, lodging of the F.I.R. vide Mahila P.S. Case No. 1 of 2014 is the basis for set in motion the criminal case against the petitioners for offence under Sections 498A, 323 and 379/34 of the Indian Penal Code and, after investigation, the police submitted the charge-sheet against the petitioners and, accordingly, the court below, by the impugned order dated 27.11.2014, has taken cognizance against the petitioners also.

Learned counsel for the petitioners submits that the marriage of the opposite party no.2 was solemnized with one Pappu Bhagat @ Shiv Bhagat in the year 2008, as the relationship could not sail properly, it caught in the rough weather leading to lodging of the case making an allegation that during marriage, the parents of the girl had given articles worth Rs. Two lacs such as jewelry, cloth, T.V. and other articles but, after marriage, again they started demanding Rs. 50,000/- by way of dowry. This information was communicated to her father by the Informant, on that account, a Panchayati was organized and, after the departure of Panches, Pappu Bhagat @ Shiv Bhagat, the husband, Sita Devi, Shyam Bhagat, Rinki Kumari, Munna Bhagat and Lalo Bhagat stopped to provide meal to her.



It is alleged that her jewelery were forcibly taken away by her mother-in-law, sister-in-law Sita Devi and Rinki Devi and had started assaulting her and, on that account, she had given a call to her father, whereupon, her father came there, he was also visited with the abuses and, ultimately, at the time of lodging F.I.R., she was living along with her parents.

The petitioner no.1 is the Dewar, petitioner no.2 is the Nanad and petitioner no.3 is the father-in-law and petitioner no.4 is also Dewar and it has been submitted that save and except general and omnibus allegation, there is no specific allegation made against them. Learned counsel for the petitioners submits that on the face of it, the proceeding requires interference of this Court exercising under Section 482 of the Cr.P.C. and it has been submitted that they are not connected with the husband as they are living separately and her husband has left to Delhi whereafter she returned to her Naihar.

This Court has called for a case diary in order to verify the correctness of the submission of the counsel for the petitioners, on perusal of the case diary, following facts emerges; the Informant Nutan Devi has reiterated her earlier version. In her statement, she has stated that her husband Shiv Bhagat, father-in-law Laloo Bhagat @ Lallan Bhagat, mother-



in-law Sita Devi, Nanad Rinki Kumari and Shyam Bhagat and Munna Bhatat were abusing her, assaulting her as also were torturing her for dowry.

Fulia Devi is the mother of the Informant. She has also made a statement that the husband and in-laws including the Nanad of her daughter connived with each other and demanded dowry. Nepali Chaudhary has also supported the claim of the Informant. Ramesh Singh who is the neighbor of the Informant has stated that on their own volition, the husband and wife were living in Delhi, she remained there and on return from Delhi, she was staying in her Sasural but, after sometime, again the husband has gone outside for earning. It has further been stated that the husband has/had no connection with the parents and other family members. They are living separately. The Informant used to enter into the quarrel with the family members and, later on, she left for her Maik. It has further been stated that the Panchayati was organized in which the in-laws were asked to keep the Informant in a proper manner.

In the case of *Preeti Gupta & Anr. Vs. State of Jharkhand & Anr.* reported in *AIR 2010 SC 3363*, it has been held that this is a matter of general concern as by lodging a case of such nature, the entire family members are roped in the case and, in that



circumstances, it has to examine as to whether there is a specific allegation has been made against a particular person in connection with commission of offence. Similar principle has been reiterated in the case of *K. Subba Rao & Ors. Vs. State of Telangana & Ors.* reported in *AIR 2018 SC 4009* and in the case of *Neelu Chopra & Anr. Vs. Bharti* reported in *(2009) 10 SCC 184*. In all the aforesaid three cases, the crux of the matter is that if no specific allegation has been made, in such circumstances, it will be prudent to exercise the power under Section 482 Cr.P.C. to save the person from unnecessary harassment of the Court.

From perusal of the case diary, there is no specific allegation has been made against the petitioner nos. 1, 2 and 4 who are Dewar, Nanad and Dewar respectively. Against them, there is no substantial material save and except the general and omnibus allegation with regard to demand of dowry. It will be travesty of justice to allow the proceeding to continue against them and incarceration for years together without any rhyme or reason.

In such circumstances, this Court finds substance in the submission of the learned counsel for the petitioners. Accordingly, the order taking cognizance dated 27.11.2014 passed by the learned Chief Judicial Magistrate, Saharsa in



connection with Mahila P.S. Case No. 01 of 2014 taking cognizance under Section 498A, 323, 379/34 of the Indian Penal Code and Section 3 of the Dowry Prohibition Act is quashed against the petitioner nos. 1, 2 & 4 only.

Accordingly, this petition is allowed to the extent indicated above.

**(Shivaji Pandey, J)**

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