

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19149 of 2015

Arising Out of PS. Case No.-417 Year-2013 Thana- BUXAR COMPLAINT CASE District-
Buxar

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1. Kumari Priya Gupta @ Priya Gupta @ Dimple Kumari, daughter of Sri Harish Chandra Gupta @ Kanhaiya,
 2. Sangita Gupta @ Neetu Kumari, daughter of Sri Harish Chandra Gupta @ Kanhaiya,
 3. Usha Gupta, wife of Sri Harish Chandra Gupta @ Kanhaiya
 4. Harish Chandra Gupta @ Kanhaiya, son of Vishwanath Prasad Gupta, All resident of Village and Post - Bankeyganj, P.S. - Mailani, District - Lakhimpur Khiri, Uttar Pradesh.

... .. Petitioners

Versus

1. The State of Bihar
2. Priyanka Devi @ Rimmi Devi, daughter of Late Rajendra Prasad, Village - Itadhi, P.S. - Itadhi, District - Buxar.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Advocate
For the Opposite Party/s : Mr. S. D. Singh Yadav, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 16-07-2019

Heard learned counsel for the parties.

2. Petitioners are relations of the husband, in the sense that petitioner no. 1 and 2 are sisters of the husband and petitioner no. 3 and 4 are parents of the husband of opposite party no. 2. The allegation is general and omnibus of demand of dowry and torture for the same. Husband is also an accused in the case but he is not a petitioner herein, rather it has been informed that application for



quashing of cognizance order filed by the husband, vide Cr. Misc. No. 18367 of 2014, has already been dismissed, on 10.12.2014, by a Bench of this Court.

3. The petitioners have sought for quashment of cognizance order dated 07.08.2013 passed in Complaint Case No. 417(C) of 2013 whereby cognizance has been taken for offences under Section 498A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

4. The prayer is on the ground that since recent past tendency is growing to implicate as many family members as are there whenever a matrimonial dispute arises between the spouse in a family and this fact was taken note of even by the Hon'ble Supreme Court in **Geeta Mehrotra and Another vs. State of U.P. and Another** as well as in **Preeti Gupta and Another vs. State of Jharkhand and Another** reported in **AIR 2010 SC 3363**. Different Coordinate Benches of this Court have followed the judicial precedent aforesaid in the matter of quashment of criminal proceeding against the in-laws where the allegation was found general and omnibus and the facts and circumstances depicted a case of malicious prosecution.

5. Learned counsel for the petitioners has drawn attention of the Court that in the complaint petition, it is stated that



the complainant was finally expelled out from the matrimonial house on 20.04.2013, whereas the prescription of the Doctor dated 20.04.2013 and pathological report would reveal that she was getting treatment and husband of the complainant was attending her treatment. Annexure-5 has been referred to substantiate the aforesaid assertion.

6. Learned counsel for the complainant-opposite party no. 2 submits that complaint petition prima facie discloses commission of cognizance offence and at this stage, the impugned order need not be interfered with because in depth appreciation of evidence and trustworthiness of the prosecution case cannot be examined at this stage.

7. In **Shiv Jee Rai vs. The State of Bihar & Anr.** reported in **2013(3) PLJR 139** and again in **Ajay Kumar Chaudhary & Ors. vs. The State of Bihar & Anr.** reported in **2014(3) PLJR 263**, this Court had occasioned to examine identical issue of quashment of FIR of the in-laws. In para 7 of Shiv Jee Rai's case (**supra**), a Bench of this Court observed as follows:-

*"7. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication has become affair of the day that has been noticed by the Hon'ble Supreme Court in the case of **Preeti Gupta and Another vs. State of Jharkhand and Another**, reported in A.I.R. 2010 SC*



3363 [: 2010(4) PLJR (SC)36] and recently the Hon'ble Supreme Court in the year 2012 in the case of **Geeta Mehrotra and Another vs. State of U.P. and Another*** passed in Criminal Appeal No. 1674 of 2012 in paragraph nos. 14, 17, 19, 20, 21 and 27 where in the similar fact and situation the Hon'ble Supreme Court has held that now it became tendency in general to rope all the family members in a case under Section 498A of the Indian Penal Code in order to (sic) undue harassment to the family members. It will be appropriate to quote paragraph nos. 34 and 35 of the aforesaid judgment in the case of **Preeti Gupta** (supra) :—

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualised by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

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 the 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 scrutinised with great care and circumspection."

8. Likewise, in para 12 of the judgment of Ajay Kumar Chaudhary's case (**supra**), the Court observed as follows:

*"12. The Apex Court, in the case of **G.V. Rao vs. L.H.V. Prasad and Others**, reported in (2000)3 SCC 693, has deprecated the deliberate implication of entire family members of the husband. Paragraph No. 12 of the judgment is as under:—*

"There has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which the elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mental agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different Courts."

9. The record reveals that the allegation is general and omnibus against the petitioners. The chances of false implication of the relations of the husband cannot be completely ruled out in



the present facts and circumstances of this case. Hence, in my view, the impugned order is not sustainable in law so far the petitioners are concerned in view of the settled proposition of law that in absence of specific allegation against in-laws, prosecution amounts to an abuse of process of the Court. Hence, the impugned order and the entire criminal prosecution against the petitioners stands quashed and this application is allowed.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	A.F.R.
CAV DATE	N.A.
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