

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14752 of 2021

Arising Out of PS. Case No.-89 Year-2018 Thana- DAUDPUR District- Saran

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1. RAJ KUMARI @ PRIYA KUMARI Daughter of Vijay Prasad Resident of Village- Mohan Bazar, P.S.- Maharajganj, District- Siwan.
 2. Sabnam Devi Wife Vijay Prasad Resident of Village- Mohan Bazar, P.S.- Maharajganj, District- Siwan.
 3. Vijay Prasad Son of Ramayan Prasad Resident of Village- Mohan Bazar, P.S.- Maharajganj, District- Siwan.
 4. Dhananjay Prasad Son of Vijay Prasad Resident of Village- Mohan Bazar, P.S.- Maharajganj, District- Siwan.
 5. Prakash Kumar Son of Vijay Prasad Resident of Village- Mohan Bazar, P.S.- Maharajganj, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sima Devi Daughter of Vijay Shatrughan Prasad Resident of Village- Takth Barwa, P.S.- Daudpur, District- Saran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Mukesh Kumar Singh
For the Opposite Party/s :	Mr. Arun Kumar Singh, Advocate
	Mr. Sachida Nand Rai, Advocate
	Mr. Avinash Raj, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 15-12-2022 Heard learned counsel for the petitioners, learned counsel for the informant and learned A.P.P. for the State.

The petitioners seek quashing of the order dated 25.02.2020 passed by the learned In-Charge Additional Chief Judicial Magistrate-XVI, Saran, Chapra in Daudpur P.S. Case No. 89 of 2018 whereby cognizance has been taken against the petitioners and others under Sections 341, 323, 498(A)/34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

The informant alleges that she was married with Deepak



Prasad (not the petitioner in the present case) on 02.03.2014 and from the wedlock a child was born who is aged about three years. It is further alleged that after two years of marriage, the husband of the informant, mother-in-law, father-in-law, sister-in-law, elder brother-in-law of the informant as well as the mediator started demanding Rs.1,00,000/- and a motorcycle. It is further alleged that when the demand was not fulfilled, the accused persons assaulted and ousted the informant along with her son from their house.

Learned counsel for the petitioners submits that from bare perusal of the allegation as alleged in the FIR, it would manifest that the allegations are general and omnibus in nature and even lacks in specific details i.e. the informant in the FIR has not even stated that as to when she was assaulted and when she was ousted from the house. Learned counsel further submits that even the demand of dowry, assault and torture is only ornamental in so far as these petitioners are concerned. It is next submitted that the motorcycle would not have been used by the sister-in-law and the mother-in-law. It is also submitted that the allegations are exaggerated to implicate the petitioners also in the case. It is further submitted that whenever any dispute arises between the husband and the wife, the entire family members are implicated when it is the duty of the husband to ensure the well being of his wife and also has responsibility to ensure that the wife lives with full dignity and honour but offlet it is being seen that dispute between the husband and the wife leads to



implication of other family members based on general and omnibus allegation. Learned counsel next relies on an order dated 15.09.2010 in Cr. Misc. No. 15719 of 2006 (Deepak Kumar Deep and Ors. Vs. State of Bihar and Anr.) whereby this Court in similar circumstance was pleased to quash the order of cognizance placing reliance on an order passed by the Hon'ble Supreme Court in the case of ***Preeti Gupta & Anr. Vs. State of Jharkhand & Anr.*** reported in **2010(7) SCC 667** wherein at para 30, the Hon'ble Supreme Court had recorded that it is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. The Hon'ble Supreme Court came across a large number of such complaints which are not even bona fide and are filed with oblique motive and at the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern thereafter at para 35 of the judgment, it was recorded that the criminal trials lead to immense sufferings for all concerned and even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. Learned counsel also submits that in the present case also the allegations are general and omnibus in nature and the entire family members of the husband stand implicated. It is further



submitted that no grandparent would ever want his grandchild to live in hardship. It is next submitted that parents can have differences with his children but can never think of putting the grandchildren in hardship but in the present case the informant has alleged that the grandchild was also ousted which further creates an impression that the allegation as alleged was only to give a serious colour to the case.

Learned A.P.P. for the State and learned counsel for the informant vehemently opposed this application.

After considering the submissions made by the learned counsel for the petitioners, the order dated 25.02.2020, passed by the learned In-Charge Additional Chief Judicial Magistrate-XVI, Saran, Chapra in Daudpur P.S. Case No. 89 of 2018, is quashed with respect to the petitioners only.

Accordingly, this application is allowed.

(Satyavrat Verma, J)

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