

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10240 of 2020

Arising Out of PS. Case No.-429 Year-2018 Thana- DANAPUR District- Patna

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1. MAHENDRA CHOUDHARY Son of Late Babulal Choudhary Resident of Quarter no. 1489A, Manasnagar, P.O. - Mughal Sarai, P.S.- Alinagar, Distt - Chaundauli, Uttar Pradesh.
 2. Shakuntala Choudhary Wife of Sri Mahendra Choudhary Resident of Quarter no. 1489A, Manasnagar, P.O. - Mughal Sarai, P.S.- Alinagar, Distt - Chaundauli, Uttar Pradesh.
 3. Manish Kumar Ranjan @ Manish Kumar Son of Sri Mahendra Choudhary Resident of Quarter no. 1489A, Manasnagar, P.O. - Mughal Sarai, P.S.- Alinagar, Distt - Chaundauli, Uttar Pradesh.
 4. Anju Choudhary @ Anju Ranjana Son of Sri Mahendra Choudhary Resident of Quarter no. 1489A, Manasnagar, P.O. - Mughal Sarai, P.S.- Alinagar, Distt - Chaundauli, Uttar Pradesh.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Puspa Kumari D/o Baijnath Choudhary, Wife of Ravi Ranjan Kumar Resident of Janakdhari Laal Road, Danapur, P.S.- Danapur, P.O.- Danapur, Distt - Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Mouar, Advocate
For the Opposite Party/s	:	Mr. Amitesh Kumar, A.P.P.
	:	Mr. Ramesh Kumar Choudhary, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 21-12-2022 Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.

Learned counsel for the petitioners submits that during pendency of the present quashing application, petitioner no. 4 and 5 had filed a discharge application before the learned Trial Court but the same came to be rejected by order dated 08.09.2022, it is next submitted that even petitioner no. 2 has



filed a discharge application, but the same is pending adjudication. Learned counsel for the petitioners seeks permission to withdraw the present quashing application with respect to petitioner no. 4.

Permission is accorded.

Learned counsel for the petitioners submits that the present application has been filed seeking quashing of the Order of Cognizance dated 25.11.2019, passed by the learned Additional Chief Judicial Magistrate, Ist Danapur, in connection with Danapur P.S. Case No. 429 of 2018, wherein cognizance has been taken under Section 498A, 406, 497 and 34 of the Indian Penal Code read with Section 3 and 4 of the Dowry Prohibition Act. Learned counsel next submits that from the perusal of the Order Dated 25.11.2019, it would manifest that the Order is cryptic and does not assign any reason to show that the learned Trial Court was even *prima facie* satisfied that the offences against the petitioners are made out, it is next submitted that whenever any dispute arises between the husband and wife the entire family members are implicated based on general and omnibus allegation.

The informant alleges that she was married with Ravi Kumar Ranjan on 12.06.2015, thereafter, she went to her



matrimonial home where she lived peacefully for about 15 days, thereafter, all family members of the husband including the petitioners forcibly took her ornaments and the husband had taken key of the car, it is next alleged that the husband, thereafter, went to his job and his family members started to treat her poorly and they used to force to all household works and even gave half meals, it is next alleged that few days later, the informant went to her husband's place at Gujarat along with her in-laws and brother-in-law and the husband started demanding Rs. 25,00,000/- for purchasing a flat, on refusal, she was mentally and physically tortured, it is next alleged that husband has illicit relation with another girl and when she tried to enquire about the same, the husband poured petrol upon her and when she raised alarm, she was saved and thereafter in December 2017, she returned back to her parental home.

Learned counsel for the petitioners submits that from bare perusal of the allegation as alleged in the FIR it would manifest that the allegation with regard to demand and torture against the petitioners are general and omnibus in nature, it is further submitted that specific allegation is against the husband of demanding Rs. 25,00,000/- and torturing when she tried to enquire about the girl with whom it is alleged that he was



having an affair. Learned counsel also submits that even during the course of investigation no material came to connect the petitioners with the offence directly, it is next submitted that whenever any dispute arises between the husband and the wife the entire family members are implicated. Learned counsel next submits that it is the duty of the husband to ensure the well being of his wife and also has a responsibility to ensure that the wife lives with dignity and honour but then of late, it is being seen that whenever a dispute arises between the husband and wife, the entire family members of the husband gets implicated with general and omnibus allegations as it has been happened in the present case as petitioner no. 1 is father-in-law, petitioner no. 2 is mother-in-law and petitioner no. 3 is brother-in-law. Learned counsel next relies on an order dated 15.09.2010 in Criminal Misc. No. 15719 of 2006 (Deepak Kumar Deep and others Vs. The State of Bihar and another) whereby this Hon'ble 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 and another Vs. The State of Jharkhand and another reported in 2010 Vol. 7 SCC Page 667, wherein, at Para 30, the Hon'ble Supreme Court had recorded that it is a matter of common experience that most of



this complaint under Section 498A IPC are filed in the heat of the moment over trivial issues without proper deliberation. We come across a large number of such complaints which are not even bonafide and are filled with public motive. At the same time, rapid increase in the number of genuine cases of dowry and harassment are also matter of serious concern, thereafter, at Para 35, it was recorded that the criminal trials lead to immense suffering for all concerned. 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 Court but also have led to enormous social unrest affecting peace harmony and happiness of the society. Learned counsel thus submits that in the present case also from the allegation as alleged it would manifest that the allegation against the petitioners are general and omnibus in nature and the learned A.C.J.M. while taking cognizance completely failed to appreciate that no material during the course of investigation had come which could directly connect the petitioners with offence.

Learned A.P.P. for the State and learned counsel for the informant opposed the quashing application of the petitioners.



The learned counsel for the informant submits that the case has been fixed for framing of charge, as such, the stage has changed, hence, the Order taking Cognizance now should not be interfered with.

Learned counsel for the petitioners rebuts the submission of the learned counsel for the informant and submits that till date charges have not been framed and it is the Order of Cognizance which presently is in existence, it is next submitted that since petitioners are family members of the husband of the informant and the allegations against them are general and omnibus in nature and the husband is facing the trial, as such, the order taking cognizance being quashed.

Considering the submission made by the learned counsel for the petitioners is quashed.

(Satyavrat Verma, J)

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