

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11542 of 2021

Arising Out of PS. Case No.-179 Year-2019 Thana- BIHIA District- Bhojpur

1. RAMA SHANKAR PRASAD Son of Dhruv Prasad Resident of Village - Krishna Braham, P.S. - Krishna Braham Turiganj, District - Buxar.
2. Savitri Devi Wife of Rama Shankar Prasad Resident of Village - Krishna Braham, P.S. - Krishna Braham Turiganj, District - Buxar.
3. ASha Devi Daughter of - Rama Shankar Prasad Resident of Village - Krishna Braham, P.S. - Krishna Braham Turiganj, District - Buxar.
4. Ajay Prasad Son of Ramashankar Prasad Resident of Village - Krishna Braham, P.S. - Krishna Braham Turiganj, District - Buxar.
5. Sanjay Prasad @ Sanjay Kumar Son of Ramashankar Prasad Resident of Village - Krishna Braham, P.S. - Krishna Braham Turiganj, District - Buxar.
6. Dinesh Kumar Son of Ramashankar Prasad Resident of Village - Krishna Braham, P.S. - Krishna Braham Turiganj, District - Buxar.
7. Chandan Kumar Son of Ramashankar Prasad Resident of Village - Krishna Braham, P.S. - Krishna Braham Turiganj, District - Buxar.
8. Raju Kumar Son of Ramashankar Prasad Resident of Village - Krishna Braham, P.S. - Krishna Braham Turiganj, District - Buxar.

... .. Petitioners

Versus

1. The State of Bihar
2. Pinki Kumari Wife of - Mahesh Kumar, D/o - Vijay Kumar Gupta Resident of Village - Judge Bazar Bihiya, P.S. - Bihiya, District - Bhojpur.

... .. Opposite Parties

Appearance :

For the Petitioner/s :	Mr.Sunil Pathak
For the Opposite Party/s :	Mr. Raj Ballabh Singh
	Mr. Amaresh Kumar
	Mr. Saket Tiwary

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL ORDER

5 05-09-2022 Learned counsel for the petitioners is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard the learned counsel for the petitioner as well as learned counsel for the informant.

The present application has been filed for quashing the order



dated 2nd November, 2020 passed by the learned SDJM, Bhojpur whereby it has taken cognizance against the petitioner including the husband of the informant under Sections 341, 323, 504, 506, 420 and 498(A)/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

The marriage of the informant was solemnized with Mahesh Kumar in the year 2013. Mahesh Kumar was serving prior to his marriage in Indian Railways. Rupees ten lakhs cash was given at the time of marriage including other customary presents. Thereafter, her husband and the petitioners subjected her to cruelty and demanded a four-wheeler and rupees six lakhs cash. Whenever her husband comes to the native village from his place of posting, he used to make pressure upon the informant for a four-wheeler. Meanwhile, the couple were blessed with a child, but the accused persons did not stop torturing. They also obtained her signature on a blank stamp paper. It has been mentioned in the FIR that her husband Mahesh Kumar brought her in Allahabad in January 2019 and badly assaulted her and dropped her in the village.

Learned counsel for the petitioner has submitted that without cogent material against the petitioners, the learned court below has taken cognizance. He has submitted further that the SDPO in his supervision note did not find the complicity of the petitioners. He has also submitted that there is allegation against the husband that he brought the victim in Allahabad and he tortured her. The learned



counsel for the petitioners has submitted further that during investigation the SDPO in his supervision note found the case false and directed the investigating authority to submit final form and also instituted a criminal case against the informant under Section 182/211 of the IPC. The superintendent of police differed with the opinion of SDPO and directed the investigating officer to collect further material but the investigating officer did not collect further material and on the basis of the existing material the cognizance has been taken against the petitioners who are in-laws.

On the other hand, the learned counsel for the informant has submitted that there is allegation in the FIR itself that all the accused persons tortured the informant for non-fulfillment of demand of dowry.

The husband of the informant is an employee of Railways. There is specific allegation against him that he brought the informant to Allahabad and he assaulted her. So far as, the petitioners are concerned they are in-laws of the informant and allegation against them are general and omnibus in nature.

The SDPO has directed during course of investigation to submit final form to the investigating officer and also lodged a case against the informant under Section 182/211 of the IPC. but the SP differed with the opinion of the SDPO and directed the investigating officer to collect further material but on the same material the cognizance was taken.



Considering these facts and circumstances, the petition is allowed and impugned order dated 02.11.2020 passed by the court of learned S.D.J.M., Bhojpur, is set aside only in respect of the present petitioners.

Office shall ensure that all defects are removed by the petitioners within the stipulated time provided in para-1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

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