

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11733 of 2021**

Arising Out of PS. Case No.-845 Year-2018 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

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JAVED AKHTAR Son of Nasir Anshari Resident of Village- Nimiya Tikari
Akbarpur, P.S.- Rohtas, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar
2. MUSHARAT JAHA MD HASNAIN AKHTAR NIMIYA TIKARI
AKBARPUR
3. Musharat Jaha W/o Md. Hasnain Akhtar, D/o Md. Hanif Resident of Village-
Nimiya Tikari Akbarpur, P.S.- Rohtas, District- Rohtas.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dr. Indihar Kumari, Advocate
For the Opposite Party/s : Mr. A.G, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 11-10-2023 Heard learned counsel for the petitioner and learned
APP for the State.

Learned counsel for the petitioner submits that the
present quashing application has been filed seeking quashing of
the order dated 23.02.2019 passed by the learned SDJM,
Aurangabad in Complaint Case No. 845 of 2018, CIS No. 845
of 2018 whereby cognizance has been taken under Section 323
and 498A of the Indian Penal Code and Section 4 of the Dowry
Prohibition Act.

Learned counsel for the petitioner submits that the
petitioner is the brother in law of the O.P. No. 02. It is further



submitted that from perusal of the allegation as alleged in the FIR it would manifest that the allegation against the petitioner is general and omnibus in nature. It is next submitted that the only allegation against this petitioner is that he had gone to drop the O.P. No. 02 to her parental home. It is next submitted that it absolutely does not stand to reason that if petitioner being brother in law had accompanied the O.P. No. 02 to her parental home what offence was committed. It is further submitted that from perusal of Para-5 of the complaint petition it would further manifest that the OP No. 02 after being dropped by the petitioner to her parental home came back to her matrimonial home, it is next submitted that whenever any dispute arises in between the husband and the wife the entire family members are implicated in a mechanical manner with general and omnibus allegation and this is one of the cases. The learned counsel at the cost of repetition submits that from perusal of the allegation as alleged in the complaint it would manifest that prima facie no offence is made out against the petitioner of committing torture or of demanding dowry.

Learned APP for the State alongwith learned counsel for the O.P. No. 02 are not in a position to rebut the submissions of the learned counsel for the petitioner that only allegation



against the petitioner being brother-in-law of the OP No. 02 is that he had accompanied her to her parental home.

Considering the submissions made by the learned counsel for the petitioner and the fact that the allegation against the petitioner is general and omnibus in nature and allowing the criminal case to continue against the petitioner will amount to abuse of the process of the Court. The order dated 23.02.2019 passed by the learned SDJM, Aurangabad, in complaint Case No. 845 of 2018, CIS No. 845 of 2018 whereby cognizance of offence under Section 323 and 498A of the IPC read with Section 4 of the Dowry Prohibition Act taken against the petitioner is hereby quashed.

It is clarified that the order has been quashed only with respect to the petitioner.

(Satyavrat Verma, J)

Adnan/-

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