

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22081 of 2017

Arising Out of PS. Case No.-406 Year-2015 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Upendra Prasad Singh and Ors Son of Late Jai Narayan Singh
 2. Manju Singh Wife of Sri Upendra Prasad Singh
 3. Kumar Piyush @ Piyush Kumar Singh Son of Sri Upendra Prasad Singh All Resident of Village- Lohiyanagar, P.S. Lohiyanagar, District Begusarai.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Mahima Singh Wife of Manish Kumar Singh, Daughter of Arun Kumar Singh, Resident of Mohalla- Shivpuri Coloney, Road No.- 2, Katari Hill Road, P.S. Chandauli, District- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ramashish
For the Opposite Party/s : Mr.Sri Ganesh Prasad Singh

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 04-04-2023 Learned counsel for the petitioners seeks permission to withdraw this application so far as the petitioner no. 1 has died.

Permission is granted.

Accordingly, the application for quashing on behalf of the petitioner no. 1 is withdrawn

Learned counsel for the petitioner also seeks permission to withdraw this application on behalf of the



petitioner no. 2 to raise all of grounds at the stage of framing of charge.

Mr. Giri, learned counsel appearing for opposite party no. 2 has no objection to that.

In view of the matter, this application on behalf of petitioner no. 2 is disposed of as withdrawn.

Heard learned counsel for the petitioners and learned APP for the State.

The present application has been filed on behalf of the petitioners for quashing the order dated 23.01.2016 passed by learned S.D.J.M., Gaya in complaint case no. 406/2015 whereby and whereunder the learned Magistrate has been pleased to take cognizance for the offences under Sections 4998(A) of the Indian Penal Code and Section 4 of the Dowry Prohibition Act and issue summons to the petitioners.

The prosecution story in brief is that the opposite party no. 2 is married with one Manish Kumar Singh in the year 2010 and at the time of marriage expenses were made by parents of the Opposite Party no. 2. It was further alleged that there was a demand of cash and on non fulfillment of the demand she was tortured. The opposite party no. 2 earlier had filed complaint case no. 394/2013.



So far as petitioner No. 3 (Kumar Piyush) who is the brother-in-law is concerned, there are general and omnibus allegations against all the petitioners.

The learned counsel for the petitioners has also relied upon the judgment of Hon'ble Supreme Court in the case of ***Kahkashan Kausar and Ors Vs State of Bihar and Ors*** reported in ***AIR 2022 SC 820***.

Mr. Giri, learned counsel for the Opposite party no. 2 has opposed the prayer of petitioner no. 3 and submits that he is one of the participants though there is general and omnibus allegation against him, but this is not the stage of quashing the cognizance order and he may raise all the grounds at the stage of framing of charge.

I have considered the submissions of the parties. So far as the allegations against the petitioners are concerned, they are general and omnibus.

In view of the law laid down in ***M/s Pepsi Food Ltd. And Anr. V. Special Judicial Magistrate and ors. 1998 (5) SCC 749*** the petitioner is not required to approach the court below at the stage of framing of charge in the facts of the case.

In view of the law laid down by the Hon'ble Supreme Court in the case of. ***Kahkashan Kausar and Ors (supra) and***



*M/s Pepsi Foods Ltd. and Anr. Vs. Special Judicial
Magistrate and Ors. 1998 (5) SCC 749* this application is
allowed.

Accordingly, the order dated 23.01.2016 passed by
learned S.D.J.M., Gaya in complaint case no. 406/2015 is
hereby quashed.

(Sandeep Kumar, J)

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