

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44163 of 2019

Arising Out of PS. Case No.-2051 Year-2018 Thana- MUZZFARPUR COMPLAINT CASE
District- Muzaffarpur

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1. Farrukh Arshad Son of late Gholam Moinuddin Konandi Resident of -
Topekhan Bazar, P.S.- Town Munger, Distt - Munger.
 2. Sayeeda Ashraf Wife of Farrukh Ashrad Resident of Topekhan Bazar, P.S.-
Town Munger, Distt - Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Farha Rahim Wife of Moinul Hoda, D/o Late Dr. M.M. Rahim Resident of
Mohalla - Galaxi House, Iqbal Hussain Road, Mehdi Hasan Chauk, P.S.-
Brahampura, Distt - Muzaffarpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Anis Akhtar
For the Opposite Party/s : Mr. Umeshanand Pandit

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 11-07-2023 Heard learned counsel for the petitioners and

learned APP for the State.

Despite valid service of notice, none has appeared

for the O.P. No. 02.

This application has been filed on behalf of the

petitioners for quashing the order dated 25.10.2018 passed by

learned Judicial Magistrate, 1st Class, Muzaffarpur in Tr. No.

270 of 2019 arising out of Complaint Case No. C-2051 of 2018.

The following order was passed on 28.08.2019:-

*“The petitioners, who are the brother-
in-law and sister-in-law seek quashing of the order
dated 25.10.2018 passed by the learned Judicial*



Magistrate, 1 st Class, Muzaffarpur in connection with Trial No. 270 of 2019 arising out of Complaint Case No. C-2051/2018 whereby cognizance has been taken under Section 498(A) of the Indian Penal Code.

It has been submitted on behalf of the petitioners that they have been made accused in this case at the instance of the complainant/opposite party no. 2 in her bid to frame as many persons as possible in the case who are related to her husband.

Despite such vindictive approach shown by the complainant/opposite party no. 2, it has been submitted that the petitioners are ready for entering into negotiations with the complainant/opposite party no. 2 for settling the dispute. They are even ready to intercede with the husband of opposite party no. 2 for amicable settlement of disputes. All this is possible only if the complainant/opposite party no. 2 becomes agreeable for the same.

Issue notice to opposite party no. 2 under registered cover with A/D as well as ordinary process, subject to steps being taken by the petitioner within a period of one week from today, returnable on 14.10.2019.

In the meantime, further proceedings before the court below with respect to the petitioners in connection with Trial No. 270 of 2019 arising out of Complaint Case No. C-



2051/2018 shall remain stayed.

Re-notify on 14.10.2019.”

The prosecution story in short is that the Complainant was married to One Moinul Hoda as per Muslim rites and customs and after few months of her marriage the petitioners and other accused persons started torturing her for dowry.

Learned counsel for the petitioners submits that petitioner No. 1 (Farrukh Arshad) and petitioner No. 02 (Sayeeda Ashraf) are the *Nandosi and Nanad* of the Opposite Party No. 02 and there are general and omnibus allegations against both the petitioners.

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***.

The learned APP for the State has opposed the prayer of the petitioners and has submitted that the prayer of the petitioners may be dismissed and they also may be directed to raise all the grievances in the Court below at the time 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.



The objection of learned APP for the State that the petitioners may be directed to raise all the points at the time of framing of charge is also fit to be rejected in view of the judgment of Hon'ble Supreme Court passed in the case of *Ashok Chaturvedi & Ors Vs Shitul H. Chanchani & Anr reported in (1998) 7 SCC 698*.

Considering the aforesaid submissions of the parties and also considering the law laid down by the Hon'ble Supreme Court in the case of *Kahkashan Kausar and Ors Vs State of Bihar and Ors (Supra)*, this application is allowed.

Accordingly, the order dated 25.10.2018 passed by learned Judicial Magistrate, 1st Class, Muzaffarpur in Tr. No. 270 of 2019 arising out of Complaint Case No. C-2051 of 2018 and all consequential proceedings arising out of Complaint Case No. C-2051 of 2018 are hereby quashed with regard to the petitioners.

It is clarified that the prosecution with regard to other accused persons shall continue.

(Sandeep Kumar, J)

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