

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53978 of 2022

Arising Out of PS. Case No.-45 Year-2018 Thana- MAHILA PS District- Jehanabad

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1. KAMLA DEVI @ MEERA KUMARI Wife of Late Chandeshwar Yadav Resident of Village - Ghosi, P.S.- Ghosi, District - Jehanabad
 2. Adity Kishore Son of Late Chandeshwar Yadav Resident of Village - Ghosi, P.S.- Ghosi, District - Jehanabad
 3. Vijeyta Kumari Daughter of Late Chandeshwar Yadav Resident of Village - Ghosi, P.S.- Ghosi, District - Jehanabad
 4. Pawan Kishore Son of Late Chandeshwar Yadav Resident of Village - Ghosi, P.S.- Ghosi, District - Jehanabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. Khusbu Devi Wife of Shakti Kishore Yadav and D/O- Rajendra Prasad Resident of Village - Ghosi, P.S.- Ghosi, District - Jehanabad, At Present R/O Village- Keshopur, P.O. Telhara, P.S.- Telhara, District- Nalanda

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajit Kumar, Advocate

For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 18-10-2023 1. Heard learned counsel for the petitioners and learned APP for the State alongwith learned counsel for the O.P. No. 2.

2. Learned counsel for the petitioners submits that the present quashing application has been filed seeking quashing of the order dated 14.09.2020 passed by the learned SDJM, Jehanabad, Jehanabad Mahila P.S. Case No. 45 of 2018 whereby cognizance of offences under Section 341, 323, 498(A), 504, 506 and 34 of the Indian Penal Code read with Sections 3 and 4



of the D.P. Act has been taken.

3. Learned counsel for the petitioners next submits that till date the stage of the case from the stage of cognizance has not changed and the petitioners are mother-in-law, brother-in-law, sister-in-law and brother-in-law respectively of the O.P. No. 02. Learned counsel for the petitioners next submits that from perusal of the allegation as alleged in the FIR, it would manifest that the O.P. No. 02 alleges that she was married to Shakti Kishore Yadav in the year 2011 and at the time of marriage an amount of Rs. 10,00,000/- by way of gift and ornaments including household articles worth Rs. 15,00,000/- were given. After marriage, two children were born but thereafter the accused persons including the husband started demanding Rs. 4,00,000/- alongwith two Kattha of land and when the O.P. No. 02 showed her inability to fulfill the demand, she was tortured and assaulted, further she was threatened that the husband will perform his second marriage, it is next alleged that even the children were not being looked after properly and whenever they fell ill they did not get proper treatment, further petitioner No. 04 assaults her and at times even behave inappropriately. Learned counsel for the petitioners submits that from bare perusal of the allegation as alleged in the FIR, it would



manifest that the allegations are general and omnibus in nature. It is next submitted that no specific allegation is alleged against the accused persons.

4. It is further submitted that whenever any dispute arises in between the husband and wife, the entire family members are implicated in a mechanical manner with general and omnibus allegation, learned counsel for the petitioners next relies on judgment of the Hon'ble Supreme Court in the case of ***Kahkashan Kausar @ Sonam & Ors vs State of Bihar (2022) 6 SCC 599*** and submits that the Hon'ble Apex Court at Para 22 has held that:

"22 Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the accused appellants, it would be unjust if the appellants are forced to go through the tribulations of a trial, i.e., general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must therefore be discouraged."

5. Thereafter, the learned counsel for the petitioners relies on the judgment in a case of ***K. Subba Rao vs the State of***



Telangana, (2018) 14 SCC 452, wherein the Hon'ble Supreme Court at para 6 observed:-

“6. The courts should be careful in proceeding against the distant relatives, in crimes pertaining to matrimonial disputes and dowry deaths. The relatives of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out”

6. The learned counsel next submits that it is the duty of the husband to ensure the well being of his wife and children that they live with dignity and honour but the O.P. No. 02 roped the entire family members in the FIR without alleging any specific allegation. The learned counsel thereafter relies on a judgment of the Hon'ble Supreme Court in a case of ***Preeti Gupta & Anr. vs. State of Jharkhand & Anr. Reported 2010 Volume 7 SCC page 667***, wherein at para 30:

“The criminal trials lead to immense sufferings 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 courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society.”

7. Learned APP for the State alongwith learned



counsel for the O.P. No. 02 vehemently opposes the submission made by the learned counsel for the petitioners but are not in a position to rebut the submission of the learned counsel for the petitioners that the allegation alleged against the petitioners are general and omnibus in nature.

8. Considering the submission made by the learned counsel for the petitioners and taking into account the judgments of the Hon'ble Supreme Court as recorded hereinabove, the order dated 14.09.2020 passed by the learned SDJM, Jehanabad in connection with Jehanabad Mahila P.S, Case No. 45 of 2018 (T.R. No. 2721 of 2020, wherein cognizance under Sections 341, 323, 498 (A), 504, 506, 34 read with Sections 3/4 of the D.P. Act has been taken, **is hereby quashed.**

9. It is made clear that the order of cognizance has been quashed only with respect to the petitioners who are party to the present proceeding.

(Satyavrat Verma, J)

Adnan/-

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