

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18332 of 2018**

Arising Out of PS. Case No.-358 Year-2011 Thana- SAHARSA COMPLAINT CASE
District- Saharsa

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Ganesh Gupta @ Ganesh Prasad Gupta and Ors

... .. Petitioner/s

Versus

State Of Bihar and Anr

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeet Kumar, Adv.
For the Opposite Party/s : Mr. Bharat Lal, APP

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**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

7 05-10-2023 1. Heard learned counsel for the petitioners and learned
APP for the State along with learned counsel for the O.P. No.2.

2. The learned counsel for the petitioners submits that the present quashing application has been filed seeking quashing of the order dated 28.11.2017, passed by the learned S.D.J.M., Saharsa, in connection with Complaint Case No.358© of 2011, whereby application filed under Section 245 of the Cr.P.C. seeking discharge has been rejected. Learned counsel for the petitioners next submits that the petitioner no.1 and 2 are elder brother-in-law of the O.P. No.2, petitioner no.3 and 4 are sister-in-law of the O.P. No.2, who were unmarried at that time when the case was instituted and now the petitioner no.3 and 4 are married. Further the petitioner no.5 is the mother-in-law of the O.P. No.2. Learned counsel next submits that the O.P. No.2 instituted the aforesaid complaint case with an allegation that she was married to Kartik



Kumar, son of petitioner no.5 on 30.01.2006, further sometime after marriage, the husband of the O.P. No.2 fell ill, for which he was under treatment of doctors and was also treated in various hospitals. It is further alleged that when her husband was suffering from ailments, the family members did not care about him, which ultimately led to his death on 29.12.2010, it is next alleged that after the death of her husband, the accused persons started demanding dowry of Rs. 2 lacs and on account of non-fulfillment of the dowry demand, she was ousted from her matrimonial home on 22.03.2011. Learned counsel submits that from bare perusal of the allegation, as alleged in the complaint case, it would also manifest that the allegation against the petitioners are general and omnibus in nature i.e. no specific allegation is alleged, it is next submitted that after the death of the husband of the O.P. No.2, the O.P. No.2 intended to get married to one Kanhaiya Kumar Gupta, which was being objected by the petitioners, which led to tension in between the O.P. No.2 and the petitioner no.5 as the petitioner no.5 was opposing her marriage with Kanhaiya Kumar Gupta, it is next submitted that from perusal of the allegations as alleged in the complaint, it would manifest that though there is allegation of demand of dowry but then the same is general and omnibus in nature, it is next submitted that it absolutely does not stand to reason that as to why the petitioners would have demanded dowry



from the O.P. No.2 after the death of her husband and that too of Rs. 2 lacs only. Learned counsel for the petitioners thereafter draws the attention of the court to the order dated 28.11.2017, by which discharge application of the petitioners was rejected to submit that the order clearly records that the O.P. No.2, as witness no.4 had deposed before the court that she married Kanhaiya Kumar Gupta at Singheshwar temple on 22.07.2013, it is next submitted that the husband of the O.P. No.2 died in the year 2010 and soon thereafter she married Kanhaiya Kumar Gupta. It is next asserted and submitted that O.P. No.2 was in love with Kanhaiya Kumar Gupta and since the relationship was being opposed by the family members of her husband, as such, the present false complaint case came to be instituted. Learned counsel next submits that the father of the husband of O.P. No.2, who was also an accused, died on account of the false implication of the entire family members including unmarried sisters of the husband of the O.P. No.2. Learned counsel next submits no doubt charges have been framed and trial commenced but then if from perusal of the allegation, as alleged in the F.I.R., and from the attending circumstances, it can be culled out that the case was instituted for malicious reason and continuation of the same shall be an abuse of the process of the Court in that event the court can still interfere.

3. Learned counsel for the O.P. No.2 was not in a



position to rebut the submission of the learned counsel for the petitioners and submitted that despite his best endeavour, he could not seek instruction from the O.P. No.2.

4. Learned APP opposes.

5. Considering the submission made by the learned counsel for the petitioners and the fact that from perusal of the allegation, as alleged in the complaint, prima facie, it appears that the allegations are general and omnibus in nature and the fact that the O.P. No.2 has performed her second marriage, which is not being rebutted by the learned counsel for the O.P. No.2, as such, the entire proceedings, arising out of the Complaint Case No. 358© of 2011 (Nitu Kumari vs. Suman Devi and Others), pending in the court of learned S.D.J.M., Saharsa is hereby quashed.

(Satyavrat Verma, J)

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