

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71581 of 2022

Arising Out of PS. Case No.-67 Year-2019 Thana- MAHILA PS District- Buxar

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1. Pramod Kumar @ Pramod Kumar Singh S/O Shubash Singh @ Shobha Singh R/O Village- Khulawa, P.S.- Dumraw, Distt- Buxar.
 2. Saroj Kumar @ Saroj Kumar Singh S/o Ramashish Singh R/o Village- Khulawa, P.S.- Dumraw, Distt- Buxar.
 3. Ramashish Singh S/o Late Parash Singh R/o Village- Khulawa, P.S.- Dumraw, Distt- Buxar.
 4. Indrawati Devi W/o Ramashish Singh R/o Village- Khulawa, P.S.- Dumraw, Distt- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Amrita Devi D/o Radha Mohan Singh R/o Village- Bachari, P.S.- Dhangai, Distt- Bhojpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha
For the Opposite Party/s : Mr. Binod Kumar

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 25-07-2023 Heard the parties.

2. Learned counsel for the petitioner seeks permission and is permitted to withdraw the application on behalf of the petitioner Nos. 03 and 04.

3. Accordingly, this application is dismissed as withdrawn with regard to the petitioner Nos. 03 and 04 with liberty to the petitioner Nos. 03 and 04 to raise all their grounds at an appropriate stage.

4. This application is filed for quashing the order



dated 23.12.2020 passed by learned SDJM, Buxar in G.R. No. 2838 of 2019 arising out of Buxar Mahila P.S. Case No. 67 of 2019.

5. Learned counsel for the petitioners submits that petitioner No. 1 (Pramod Kumar) and petitioner No. 02 (Saroj Kumar) are *cousin devar* and *devar* of the Opposite Party No. 02 and there are general and omnibus allegations against both the petitioners.

6. Learned counsel for the petitioner No. 01 and 02 also submits that they are junior members of the family and their prosecution is nothing but the abuse of the process of the Court.

7. Learned counsel for the petitioner No. 01 and 02 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***.

8. The learned APP for the State has opposed the prayer of the petitioner Nos. 01 and 02 and has submitted that the prayer of the petitioner Nos. 01 and 02 may also be dismissed and they also may be directed to raise all the grievances in the Court below at the time of framing of charge.

9. I have considered the submissions of the parties.



So far as the allegations against the petitioner Nos. 01 and 02 are concerned, they are general and omnibus.

10. The objection of learned APP for the State that the petitioner Nos. 01 and 02 may also be directed to raise all their grounds 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*.

11. 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.

12. Accordingly, the order dated 23.12.2020 passed by learned SDJM, Buxar in G.R. No. 2838 of 2019 arising out of Buxar Mahila P.S. Case No. 67 of 2019 is hereby quashed with regard to the petitioner Nos. 01 and 02 only.

13. The prosecution of other accused persons shall continue.

(Sandeep Kumar, J)

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