

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2828 of 2022

Arising Out of PS. Case No.-47 Year-2019 Thana- SULTANGANJ District- Patna

-
1. MD. SHAHZAD KARIM Son of Md. Shamim Resident of Village - Khan Mirza, Buxaria, Tola, P.s.- Sultanganj, P.O.- Mahendaru, Distt.- Patna, Pincode - 800006.
 2. Md. Shamim Son of Late Md. Aamir Hasa Resident of Village - Khan Mirza, Buxaria, Tola, P.s.- Sultanganj, P.O.- Mahendaru, Distt.- Patna, Pincode - 800006.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shabina Praween D/o Md. Kalim Resident of Village - Koiri Tola, Vikram, Patna, Bihar 801104

... .. Opposite Party/s

Appearance :

For the Petitioners	:	Mr. Saurabh Bishwambhar, Advocate
For the State	:	Mr. Murli Dhar, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 15-02-2024 Heard learned counsel for the petitioners and learned A.P.P. for the State.

2. This application has been filed under Section 482 of the Code of Criminal Procedure on behalf of petitioners for quashing the order of cognizance dated 10.02.2020 passed by the learned Judicial Magistrate 1st Class, Patna, in Sultanganj P.S. Case No. 47 of 2019. By the said order, the learned Magistrate took cognizance of offences punishable under Sections 341, 323, 325, 498A and 504 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act against all



the three accused persons, including these petitioners.

3. As per prosecution case, there is allegation of commission of torture and harassment due to non-fulfillment of demand for dowry.

4. Learned counsel for the petitioners assails the order of cognizance dated 10.02.2020 on the ground that even after perusal of the entire F.I.R., no offence is made out against these petitioners. Secondly, he submits that the F.I.R. has been filed with oblique motive and *mala fide* intention. Thirdly, he submits that the F.I.R. suffers from suppression of material fact.

5. On the other hand, learned counsel for the State opposed the statements made on behalf of the petitioners and supported the order of cognizance submitting that these are the defence of the petitioners which can only be looked at the stage of the trial and on these grounds order of cognizance cannot be quashed.

6. From bare perusal of the impugned order, it is apparent that the order of cognizance dated 10.02.2020 has been passed after perusing the detailed written report and materials available on record and as such, I do not find any illegality in the impugned order. I do find substance in the submission made on behalf of learned Additional Public Prosecutor for the State



that the grounds which have been taken by the petitioners to assail the order of cognizance are in the realm of probable defence, which can only be looked at the stage of trial after perusing evidences on behalf of the parties.

7. Accordingly, this quashing application is dismissed.

(Prabhat Kumar Singh, J)

shashank/-

U		T	
---	--	---	--

