

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10096 of 2023

Arising Out of PS. Case No.-852 Year-2021 Thana- PATNA COMPLAINT CASE District-
Patna

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1. SHABNOOR @ NEHA @ SHABNOOR YASMIN D/o Late Syed Mazhar Hussain R/o Alamganj Machhua Toli, Peerwais Lane, Machhua Toli, P.S.- Alamganj, District- Patna
 2. PARWEEN BANO Wife of Late Ataul Rahman R/o Alamganj Machhua Toli, Peerwais Lane, Machhua Toli, P.S.- Alamganj, District- Patna
 3. YASMIN @ YASMIN BANU Wife of Late Syed Mazhar Hussain R/o Gauri Das Ki Mandi, Malsalami, P.S.- Malsalami, District- Patna
 4. MUMTAZ AHMAD Son of Late Syed Abdul Ghaffar R/o Mohalla- Alamganj, Peerwais Lane, Machhua Toli, P.S.- Alamganj, District- Patna at present resident A-22/13, Street No. - 22, deep Modern Public School, Prem Nagar- 3, Part-1, Kiradi Suleman Nagar, Sultanpuri, C Block, North West Delhi, Delhi- 110086

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. SHABNAM KHATUN Wife of Imtiaz Ahmad R/o Dargah Road, Akhtari Lane, P.S.- Sultanganj, District- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Zainul Abedin
For the Opposite Party/s	:	Mr.Syed Mojibur Rahman
For the O.P. No. 2	:	Mr. Farooque Afzal, Advocate Mr. Pankaj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

9 14-11-2024 Heard learned counsel for the petitioners, learned counsel for the O.P. No. 2 and learned A.P.P. for the State.

2. This application has been filed for quashing against the order dated 06.05.2022 in Complaint Case No. 852/2021 passed by learned Additional Chief Judicial Magistrate-VI, Patna City, Patna whereby cognizance has been taken under



Sections 498A, 323 and 504 read with Section 34 of the Indian Penal Code.

3. As per the prosecution case, the petitioners and the co-accused person are alleged to have tortured the complainant mentally and physically due to non-fulfillment of demand of Rs. 7,00,000/- and a motorcycle as dowry.

4. Learned counsel for the petitioners has submitted that the petitioner no. 1 is Bhanji of the complainant's husband, the petitioner no. 2 and 3 are elder sisters of the complainant's husband and the petitioner no. 4 is younger brother of the complainant's husband. It is further submitted that there is no specific overt act attributed against the petitioners rather the allegation against the petitioners is general and omnibus. The petitioners neither demanded any dowry nor assaulted the complainant. Learned counsel for the petitioners has relied on the judgment of **Geeta Mehrotra and Anr. Vs. The State of U.P. and Anr. (Cr. App. No. 1674 of 2012)** wherein it was observed that *“if the F.I.R. as it stands does not disclose specific allegation against the accused specially in a matter arising out of matrimonial bickering, it would be clear abuse of the legal and judicial process to mechanically send named accused in the F.I.R. to undergo trial unless the F.I.R., discloses specific*



allegations which would persuade court to take cognizance of offence alleged against relatives of main accused who are prima facie not found to have indulged in physical and mental torture of the complainant- wife- courts are expected to adopt a cautious approach in matters of quashing especially in cases of matrimonial dispute whether F.I.R. in fact discloses commission of an offence by relatives of principal accused or F.I.R. prima facie discloses of a case of over-implication by involving entire family of accused at instance of complainant". Learned counsel for the petitioners has further relied on the judgment of **Hon'ble Supreme Court in K. Subba Rao v. The State of Telangana, (2018) 14 SCC 452** wherein it was also observed that "*The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relative 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*".

5. Learned counsel for the opposite party no. 2 and learned A.P.P. for the State have vehemently opposed the quashing application of the petitioners. Learned counsel for the opposite party no. 2 has further submitted that there is specific allegation against the petitioners who are non other than bhanji,



elder sisters and younger brother of the complainant husband and at this stage, the present prosecution may not be quashed.

6. Given the relevant circumstances and the lack of any specific role attributed to the petitioners, it would be unjust to subject them to the ordeal of trial. General and vague allegations should not compel the relatives of the complainant's husband to face trial. It is to be kept in mind that a criminal trial, even if ending in acquittal, leaves a lasting impact on the accused, and thus, such proceedings should be avoided where it is unwarranted.

7. Considering the aforesaid facts and circumstances of the case as well as law laid down in the case of **Kahkashan Kausar @ Sonam and Ors Vs The State of Bihar and Ors reported in (2022) 6 SCC 599**, the impugned order of cognizance with respect to the petitioners dated 06.05.2022 passed by the learned Additional Chief Judicial Magistrate VI, Patna City, Patna is hereby quashed.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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