

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14123 of 2024

Arising Out of PS. Case No.-91 Year-2019 Thana- MAHILA PS District- Darbhanga

1. Amit Kumar, Son of Late Amresh Prasad Singh, Resident of Village-Menkopatti, P.S.-Baheri, Distt.-Darbhanga
2. Vinit Kumar @ Binit Kumar, Son of late Amresh Prasad Singh, Resident of Village-Menkopatti, P.S.-Baheri, Distt.-Darbhanga
3. Asha Devi, Wife of Late Amresh Prasad Singh, Resident of Village-Menkopatti, P.S.-Baheri, Distt.-Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Jha, Advocate
For the Opposite Party/s : Md. Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 12-03-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. In the present case, the petitioners are apprehending their arrest in connection with Laheriasarai Mahila P.S. Case No. 91 of 2019, registered for the alleged offences under Sections 323, 504, 354©, 498(A), 506/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

3. The case has been found true under Sections 498(A), 323/34 IPC only against the petitioners during investigation. However, I do not think there should be any apprehension in the mind of the petitioners since the Hon'ble



Apex Court in the case of *Arnesh Kumar v. State of Bihar*, reported in **(2014) 8 SCC 273 [Para-11]** and recently in the case of *Mohd. Asfak Alam v. State of Jharkhand*, reported in **(2023) 8 SCC 632**, issued following directions in order to ensure that police officers do not arrest the accused unnecessarily and Magistrates do not authorize detention casually and mechanically:

“11.1. All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 CrPC;

11.2. All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);

11.3. The police officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

11.4. The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

11.5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

11.6. Notice of appearance in terms of Section 41-A CrPC be served on the accused within two weeks from the date of institution of



the case, which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

11.7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.

11.8. Authorising detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

12. We hasten to add that directions aforesaid shall not only apply to the cases under Section 498-A IPC or Section 4 of the Dowry Prohibition Act, the cases in hand, but also such cases where offence is punishable with imprisonment for a terms which may be less than seven years or which may extend to seven years, whether with or without fine.”

4. A Coordinate Bench of this Court in the case of ***Naushad Ansari (Cr. Misc. No.3536 of 2024)*** directed the police and the learned Magistrate to completely adhere to the directions given by the Hon’ble Supreme Court in the case of ***Arnesh Kumar*** (supra) and ***Md. Asfak Alak*** (supra).

5. In these circumstances, the learned counsel for the petitioners submits that he does not want to press his petition and, as such, the petition may be disposed of in terms of directions contained in the case of ***Naushad Ansari (supra)***.

6. In the light of aforesaid directions of the Hon’ble



Supreme Court in the cases of *Arnesh Kumar & Mohd. Asfak Alam* (supra) as well as decision of this Court in the case of *Naushad Ansari (supra)*, this petition need not be entertained at this stage.

7. Hence, the present petition stands disposed of in terms of the aforesaid directions of the Hon’ble Supreme Court as well as this Court to the authorities concerned to strictly adhere to the same.

(Arun Kumar Jha, J)

V.K.Pandey/-

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