

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11344 of 2023

Arising Out of PS. Case No.-444 Year-2022 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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1. Md. Asif S/O Md. Salauddin R/O- Noor Colony, Shaguna More, P.S.- Danapur, District- Patna
 2. Md. Imran S/O Md. Salauddin R/O- Noor Colony, Shaguna More, P.S.- Danapur, District- Patna
 3. Md. Salauddin S/O Md. Yunus R/O- Noor Colony, Shaguna More, P.S.- Danapur, District- Patna
 4. Raushan Ara W/O Md. Salauddin R/O- Noor Colony, Shaguna More, P.S.- Danapur, District- Patna
 5. Noor Mohammad S/O Late Karamat Mian R/V- Karia Patti, P.S.- Raghopur, District- Supaul
 6. Md. Murtaza S/O Late Ramjan Ali R/O Mohalla- Raja Bazar, P.S.- Shastri Nagar, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar Bihar
2. Sabista Praween D/O Md. Haseeb R/V-Bhatouni, P.O- Bansh Gopal, P.S.- Puraini, District- Madhepura

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Md. Nurul Hoda
For The Opposite party/s:		Mr.Sunil Kumar Pandey
		Mr. Saket Tiwary
		Mr. Amritya Raj

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 23-09-2024 Heard the learned counsel for the petitioners, learned
APP for the State and learned counsel for the O.P. No. 02.

2. This application has been filed for quashing of the
order dated 26.05.2022 passed by learned Additional Chief
Judicial Magistrate-II, Bhagalpur in Complaint Case No. 444 of
2022 by which the court below has taken the cognizance against



the petitioners.

3. As per the prosecution case, the allegation against the petitioners is that they have tortured and assaulted the complainant due to non-fulfilment of demand of dowry.

4. The learned counsel for the petitioners prays for withdrawing this application filed on behalf of petitioner no. 01 (Md. Asif), petitioner no. 02 (Md. Imran), petitioner no. 03 (Md. Salauddin) and petitioner no. 04 (Raushan Ara) with liberty to raise all the grounds at the stage of framing of charge.

5. Permission is accorded.

6. Accordingly, this application stands dismissed as withdrawn with regard to petitioner no. 01 (Md. Asif), petitioner no. 02 (Md. Imran), petitioner no. 03 (Md. Salauddin) and petitioner no. 04 (Raushan Ara) with the aforesaid liberty.

7. The learned counsel for the petitioners has submitted that so far as petitioner no. 05 (Noor Mohammad) and petitioner no. 06 (Md. Murtaza) are concerned, petitioner no. 05 is the maternal grandfather and the petitioner no. 06 is the friend of the father-in-law of the complainant.

8. The learned counsel for the complainant has appeared and opposed the application of the petitioners.

9. I have considered the submissions of the parties.



10. The allegation levelled against the petitioner no. 05 (Noor Mohammad) and petitioner no. 06 (Md. Murtaza) are general and omnibus in nature. Petitioner no. 05 (Noor Mohammad) and petitioner no. 06 (Md. Murtaza) being the maternal grandfather and friend of the father-in-law of the complainant, in my opinion have falsely been implicated in the present case.

11. The Hon'ble Supreme Court in the case of ***Preeti Gupta V/s State of Jharkhand; (2010) 7 SCC 667***, ***Achin Gupta V/s State of Haryana; 2024 SCC OnLine SC 759*** and in the case of ***Kahkashan Kausar & Ors V/s State of Bihar & Ors; AIR (2022) SC 820***, has deprecated the practice of falsely implicating all the family members including the relatives in a dowry case.

12. Considering the law laid down by the Hon'ble Supreme Court, I am of the view that the prosecution of the petitioners who are not directly connected with the O.P. No. 02 or her husband is an abuse of the process of the Court and the same should not continue.

13. Accordingly, this application stands allowed and the order dated 26.05.2022 passed by the learned Additional Chief Judicial Magistrate-II, Bhagalpur in Complaint Case No.



444 of 2022 by which cognizance has been taken under Sections 323, 504, 498A/34 of the Indian Penal Code and Section 3/4 of the D.P. Act is hereby quashed with regard to petitioner no. 05 (Noor Mohammad) and petitioner no. 06 (Md. Murtaza) only. .

14. This application is partly allowed.

(Sandeep Kumar, J)

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