

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10783 of 2020

Arising Out of PS. Case No.-215 Year-2018 Thana- BHAGWAN BAZAR District- Saran

1. KAPIL MUNI SHARMA Son of Late Ram Singar Sharma Resident of Village-Inayatpur, P.O and P.S-Daudpur, District-Saran.
2. Manpati Devi Wife of Kapil Muni Sharma Resident of Village-Inayatpur, P.O and P.S-Daudpur, District-Saran.
3. Kiran Devi Wife of Dineshwar Sharma Resident of Village-Inayatpur, P.O and P.S-Daudpur, District-Saran.
4. Ram Sanehi Sharma Son of Kapil Muni Sharma Resident of Village-Inayatpur, P.O and P.S.-Daudpur, District-Saran and present resident of House No.107, Sita Nath Ghose Lane, P.S-Lalkiya, District-Howrah(West Bengal).
5. Basanti Devi @ Basanti Sharma Wife of Ramsanehi Sharma Resident of Village-Inayatpur, P.O and P.S.-Daudpur, District-Saran and present resident of House No.107, Sita Nath Ghose Lane, P.S-Lalkiya, District-Howrah(West Bengal).
6. Gudiya Devi @ Manorma Devi Wife of Late Manjeet Sharma Resident of Mohalla-Bindusar Bujurg, P.S.-Siswan, District-Siwan.
7. Sangeeta Devi Wife of Basudeo Sharma Resident of Village-Teknewas, P.S.-Revilganj, District-Saran.
8. Ashok Sharma Son of Sri Kapil Muni Sharma Permanent Resident of Village-Inayatpur, P.O. and P.S.-Daudpur, District-Saran, and presently resides at Mohalla-Ratanpura, P.S.-Bhagwan Bazar, District-Saran.
9. Puja Devi @ Puja Sharma Wife of Ashok Sharma Permanent Resident of Village-Inayatpur, P.O. and P.S.-Daudpur, District-Saran, and presently resides at Mohalla-Ratanpura, P.S.-Bhagwan Bazar, District-Saran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pushpa Devi Wife of Mahesh Sharma Resident of Mohalla-Ratanpura, P.O and P.S.-Bhagwan Bazar, District-Saran at Chapra. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nawnit Kumar Tiwary
For the Opposite Party/s : Mr. Sanjay Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL JUDGMENT

Date : 25-07-2024

Heard learned counsel on behalf of the petitioners,



learned counsel for the O.P. No.2 and learned APP for the state.

2. The instance application has been preferred by the petitioners for quashing of order dated 2.8.2019/30.9.2019, passed by the learned Chief Judicial Magistrate, Chapra (Saran) in connection with Bhagwan Bazar P.S. Case No. 215 of 2018 (Corresponding to Trial No. 2927 of 2019), by which cognizance of the offence punishable under sections 498(A)/323, 504/506 of the Indian Penal Code has been taken against the petitioners.

3. The prosecution case has been instituted on the basis of written information of the opposite party no.2 (informant) wherein, she alleged that she was married to co-accused Mahesh Sharma in accordance with Hindu Rites and Custom but after few days of marriage, the petitioners along with her husband started torturing her mentally and physically for dowry of a motorcycle and one lakh rupees. The petitioners along with co-accused also threatened her to kill on non-fulfillment of dowry demand. The informant further alleged that her husband (co-accused) has an extra marital affair with another girl.

4. Learned counsel on behalf of the the petitioners submitted that the instant case has been against the petitioners



with ill motive. Petitioner no.1 is father-in-law, petitioner no.2 is mother-in-law, petitioner nos, 3, 5, 6, 7, & 9 are sisters-in-law and petitioner nos. 4 & 8 are brothers-in-law of the informant and they have no concern mess and business of the informant as well as her husband. The partition has been taken place between the informant's husband and his father and his brothers. The petitioners live separately from the informant and her husband (co-accused). It is further submitted that the informant was married to the petitioner in the year 1999, and this case has been filed in year of 2018 only with the intention of harassing the petitioners.

5. Learned counsel on behalf of informant and learned APP appearing for the state submitted that the petitioners are in-laws of the informant (opposite party no.2) and they are said to have assaulted and demanded dowry from her.

6. In case of ***Dhruvaram Murlidhar Sonar vs. State of Maharashtra***, reported in ***(2019) 18 SCC 191*** in its paragraph no. 13, it has been held that for quashing the proceedings, meticulous analysis of factum of taking cognizance of any offence by Magistrate is not called for. Appreciation of evidence also not permissible in exercise of



inherent powers. If the allegation set out in the complaint does not constitute the offence of which cognizance has been taken. It is open to the High Court to quash the same in the exercise of inherent powers.

7. Hon'ble Apex Court in the case of ***Preeti Gupta & another vs. State of Jharkhand & another, reported in (2010) 7 SCC 667*** has been pleased to rule that there should be clear allegation against the relatives of the husband and vague and omnibus allegation would not be sufficient to compel them to undergo agony of the trial.

8. Hon'ble Apex Court in the case of ***Arnesh Kumar vs. State of Bihar and Another*** reported in ***(2014) 8 SCC 273*** has been pleased to observe that there is phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498(A) of I.P.C. was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498(A) I.P.C. is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the



husband and his relatives arrested under this provision. In a quite number of cases, bedridden grandfathers and grandmothers of the husbands, their sisters living abroad for decades are arrested. In the said case, the Supreme Court has cautioned the courts with regard to proceeding against in-laws and distant relatives of the husband of the wife involved in the offence under Section 498(A) of the I.P.C. and other relevant offences.

9. In this case, the petitioners have no concern mess and business of the O.P. No.2 and her husband. They are residing separately from them. Allegation against the petitioners in this case is only general and omnibus. This is clear case of abuse to the process of the Court.

10. In view of the aforesaid factual and legal discussions, the petitioners are facing general and omnibus allegation, therefore, this criminal miscellaneous application is allowed.

11. Accordingly, the cognizance order dated 2.8.2019/30.9.2019 passed by the learned Chief Judicial Magistrate, Chapra (Saran) in connection with Bhagwan Bazar P.S. Case No. 215 of 2018 (Corresponding to Trial



No. 2927 of 2019), is hereby, quashed and set aside with regard to these petitioners.

(Sunil Kumar Panwar, J)

Subham/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.7.2024.
Transmission Date	29.7.2024.

