

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12659 of 2023

Arising Out of PS. Case No.-778 Year-2019 Thana- MOTIHARI TOWN District- East
Champaran

-
1. RAMASHRAY SINGH S/O LATE RAGHUVeer SINGH R/v- Chandmari, P.S.- Town (Motihari), District- East Champaran Motihari
 2. VEENA SINGH W/O RAMASHRAY SINGH R/v- Chandmari, P.S.- Town (Motihari), District- East Champaran Motihari

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. AMRITA KUMARI W/O BHANU PRATAP SINGH D/O SRI UPENDRA RAI R/v- Chandmari, P.S.- Town (Motihari), District- East Champaran Motihari At present R/o village and post- Sirasiya, P.S.- Sirasiya O.P., District- West Champaran

... .. Opposite Party/s

Appearance :

For the Petitioners	:	Mr. Rajesh Ranjan, Advocate Ms. Kanika, Advocate Mr. Mohammad Farooq, Advocate
For the State	:	Mr. Rajendra Nath Jha, APP
For Opposite Party No.2	:	Mr. Milind Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 04-03-2024 1. Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel for the informant/Opposite Party No. 2.

2. This application has been filed under Section 482 of the Code of Criminal Procedure, 1973, on behalf of the petitioners for quashing the order dated 01.09.2022 passed by the learned Chief Judicial Magistrate, Motihari, in Town (Motihari) P.S. Case No. 778 of 2019. By the said order, the learned Magistrate took cognizance of offences punishable



under Sections 341, 323, 324, 498A, 504 and 34 of the Indian Penal Code against three accused persons, including these petitioners.

3. The prosecution story in brief is that the informant/Opposite Party No. 2 got married with co-accused Bhanu Pratap Singh. Thereafter, it is alleged that all the accused persons, including these petitioners, started torturing and harassing the informant/Opposite Party No. 2 due to non-fulfillment of demand for dowry. It is also alleged that all the accused persons, including these petitioners, assaulted the family members of informant/Opposite Party No. 2 by means of iron rod and snatched her jewelry worth Rs. 4,00,000/-.

4. Learned counsel appearing on behalf of the petitioners submits that after investigation, the police submitted final form for the offences punishable under Sections 341, 323, 324, 498A, 504 and 34 of the Indian Penal Code against all the accused persons, including these petitioners, and thereafter the learned court below took cognizance vide order dated 01.09.2022. It is next submitted that Petitioner No. 1 is father-in-law and Petitioner No. 2 is mother-in-law of the informant/Opposite Party No. 2, and they are separate in mess and property. It is next submitted that they have nothing to do



with the affairs of the informant/Opposite Party No. 2 and her husband. Whatever happened between them was personal affairs of the husband and wife, with which the petitioners have nothing to do. It is next submitted that the F.I.R. does not disclose any distinct role or contribution of these petitioners in the alleged occurrence and merely on the basis of general and omnibus allegation, the petitioners have been made an accused in this case and continuation of proceedings against these petitioners would amount to abuse of the process of the court. In this connection, learned counsel for the petitioners has placed reliance upon judgment of the Hon'ble Apex court passed in the case of ***Preeti Gupta & Anr. Versus State of Jharkhand & Anr.*** reported in ***(2010) 7 SCC 667***.

5. On the other hand, learned A.P.P. for the State and learned counsel appearing on behalf of the informant/Opposite Party No. 2 have vehemently opposed the arguments advanced on behalf of the petitioners and submits that petitioners are named in the F.I.R. and they were instrumental in torturing the informant/Opposite Party No. 2, both mentally and physically. There is sufficient material on record against the petitioners and it cannot be said that *prima facie* no case is made out against these petitioners. Hence, no interference is required by this court



at this stage.

6. Having heard the submissions advanced by learned counsels appearing on behalf of the parties and perusing the materials available on record, and on perusal of the F.I.R., it appears that only omnibus allegations have been made by the informant. Neither time nor place where the incident happened with the informant has been mentioned by her as to where she was subjected to cruelty and harassment in regard to demand of dowry.

7. Therefore, upon consideration of the relevant circumstances, and in light of the law laid down by the Hon'ble Apex Court in the cases of *Preeti Gupta (supra)* and *Kahkashan Kausar alias Sonam and others versus State of Bihar and Others* reported in (2022) 6 SCC 599, and in absence of any specific role attributed to the petitioners, it would be unjust if the petitioners are forced to go through the tribulations of a trial.

8. In view of the foregoing discussions, the order of cognizance dated 01.09.2022 passed by the learned Chief Judicial Magistrate, Motihari, in connection with Town (Motihari) P.S. Case No. 778 of 2019, with respect to these petitioners is hereby quashed.



9. Accordingly, the present quashing application is
allowed.

(Prabhat Kumar Singh, J)

shashank/-

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

