

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15875 of 2020

Arising Out of PS. Case No.-90 Year-2019 Thana- SHRIKRISHNAPURI District- Patna

1. Ram Pravesh Sharma @ Ram Sevak Sharma, S/o Late Kamla Prasad Sharma, R/o 401A, Vina Sadan Nehru Nagar, P.S.- Patliputra, District- Patna. At present The Nook Flat No.-B 1106, Servey No.60/1, behind D.Y. Patil College, Tathawade, Pune (Maharastra) Post Office- Tathawade, P.S- Wakad, District- Pune, Maharastra Pin Code-411033.
2. Anand Kumar, Son of Shri Ram Pravesh Sharma, R/o 401A, Vina Sadan Nehru Nagar, P.S.- Patliputra, District- Patna. At present The Nook Flat No.- B 1106, Servey No.60/1, behind D.Y. Patil College, Tathawade, Pune (Maharastra) Post Office- Tathawade, P.S-Wakad, District- Pune, Maharastra Pin Code-411033..
3. Archna Kumari, Wife of Shri Anand Kumar, R/o 401A, Vina Sadan Nehru Nagar, P.S.- Patliputra, District- Patna. At present The Nook Flat No.-B 1106, Servey No.60/1, behind D.Y. Patil College, Tathawade, Pune (Maharastra) Post Office- Tathawade, P.S- Wakad, District- Pune, Maharastra Pin Code-411033..
4. Dinesh Singh, Son of Shri Paras Singh, R/o Mohalla- Lekha Nagar, near DAV School, P.S.- Khagaul, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dipika Singh, w/o- Ambuj Kumar and D/O- Vijay Kumar Singh, R/O- House No.-34, Mohalla Gandhi Nagar, Boring Road, P.S.- Sri Krishnanapuri, Dist-Patna 800001

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar with Mr. Praveen Kumar, Mr. Rohit Kumar, Mr. Nihal Swaraj Pal, Advocates
For the Opposite Party/s :		Mr. Sanjay Kumar Sharma, APP
For the Opp. Party No.2 :		Mr. Vijay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 06-09-2024



Heard Mr. Rajesh Kumar, learned Advocate for the petitioners and learned Advocate for the State. The opposite party no. 2 appears through Mr. Vijay Kumar, learned Advocate.

2. After some argument, learned Advocate for the petitioners seeks permission to withdraw the present application with respect to petitioner no. 1 with liberty to avail the remedy available under the law.

3. Permission is accorded.

4. The petitioner nos. 2, 3 and 4 being aggrieved by the order taking cognizance dated 01.10.2019, passed by the learned Additional Chief Judicial Magistrate-IV, Patna in Shri Krishnapuri P.S. Case No. 90 of 2019, wherein the learned court has taken cognizance for the offences under Sections 341, 323, 498A, 504, 506, 34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act, has preferred the present quashing application by invoking the inherent jurisdiction of this Court.

5. Shorn of irrelevant details, the relevant facts for adjudication of the matter are that the on the written report of the informant-opposite party no. 2, leading to institution of the F.I.R. alleging therein that her marriage was solemnized on 11.07.2013 with the son of petitioner no. 1. At that point of time, her husband was serving in Merchant Navy, as a Chief Engineer.



Soon after the marriage the informant was subjected to demand of dowry and on account of non-fulfillment of the same she was tortured at the hands of the accused persons, including the petitioners. It is alleged that at the time of marriage the father of the informant spent Rs. 30,00,000/- (Thirty lakhs) but could not satisfy the lust of the accused persons and they kept on demanding dowry. The husband of the informant used to beat and assault, but the father-in-law had been a mute spectator and never protested. Having found no way out, the informant finally left her matrimonial home and came to her *maiya* along with her son.

6. The petitioner no.2 is the brother-in-law and petitioner no.3 is the sister-in-law (wife of petitioner no.2). The petitioner no.4 is the father-in-law of petitioner no.2. All of them have been arrayed as accused in Shri Krishnapuri P.S. Case No. 90 of 2019 with general and omnibus allegation of demand of dowry and torture.

7. Learned Advocate for the petitioners categorically averred that petitioner nos. 2 and 3 are living separately in Pune at the place of posting since 2011 and they have no concern with the family affairs of opposite party no.2 and her husband. Admittedly, the petitioner no.4, who happens to be the father-in-



law of petitioner no.2 and father of petitioner no.3, is residing separately with his family at Mohalla Lekha Nagar, near D.A.V. School, P.S.- Khagaul, District- Patna, which is distant to the matrimonial house of opposite party no.2. Despite the aforesaid facts that they have been residing at different places, having no concern with the family affairs, their names have been implicated. During the course of investigation, the Investigating Officer has recorded the statement of only the father and mother of the informant, who are admittedly the interested witness; nevertheless the investigating officer has ever tried to verify the truth about the complicity of the petitioners in the crime, in question. Even the statement of interested witnesses do not disclose the involvement of these petitioners in the present case; nonetheless the learned Judicial Magistrate has taken cognizance of the offence in a mechanical way without examining the materials of the case and the same was fastened by framing of charge against these petitioners on 20.12.2022, which order was also put to challenge by filing an interlocutory application, bearing I.A. No. 1 of 2023.

8. Adverting to the aforesaid facts, learned Advocate for the petitioners contended that whenever any dispute arises in between the husband and the wife, the entire family members



are implicated in a mechanical manner with general and omnibus allegation in order to coerce the husband into submission.

9. Learned Advocate for the petitioners further urged that continuation of the proceeding without their being any specific allegation constituting any offence would be an abuse of the process of the Court and thus the same must be put to an end for the interest of justice.

10. On the other hand, learned Advocate for the opposite party no.2 while refuting the contention of the petitioners in all his vehemence submitted that the written report leading to institution of the F.I.R. clearly speaks about the involvement of the petitioners along with other accused persons. At the time of cognizance or summoning of an accused, the Judicial Magistrate is only required to look into the materials with a view that prima facie case is made out or not, is the contention of the learned Advocate for the opposite party no.2.

11. This Court has carefully heard the learned Advocates for the respective parties and also perused the materials available on record.

12. Having perused the F.I.R., this Court finds that the written report lacks specific allegation as to how the opposite



party no.2 was subjected to torture or what was the demand. The entire allegation revolves around the husband that it is he, who was not taking care of her and tortured and assaulted on various occasions, which has been specifically mentioned with an allegation that the same was being done at the instance of other co-accused persons.

13. Opposite Party No.2 entered her appearance through her counsel, but this fact has not been denied that petitioner nos. 2 and 3 have been residing in Pune and the petitioner no.4, who being the father-in-law of petitioner no.2 has a separate residence and residing with his family members at different place.

14. In the aforesaid factual background this Court primarily reiterated the guidelines issued by the Hon'ble Supreme Court time to time in a matter arising on account of Matrimonial dispute. In case of **Preeti Gupta & Anr. Vs. State of Jharkhand & Anr.** Reported in **(2010) 7 SCC 667**, the Hon'ble Supreme Court observed that

“the ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of



implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases.”

“The allegations of harassment by the husband and close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. Such allegations of the complaint are required to be scrutinized with great care and circumspection.”

15. The Hon’ble Supreme Court made a caution for the members of the Bar that they have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed



either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem.

16. Recently, in the case of **Kahkashan Kausar @ Sonam vs The State of Bihar & Ors.**, reported in (2022) 6 SCC 599, the Hon'ble Supreme Court while dealing with the case where the Hon'ble Court refused to quash the criminal proceeding against the Niece, Mother in-law, Sister in-law and brother in law have held that "the Court should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relatives 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." The Hon'ble Supreme Court highlighting the decisions rendered in the case of **Rajesh Sharma & Ors. Vs. State of UP & Anr.**, reported in (2018) 10 SCC 472, **Preeti Gupta (supra)**, **Geeta Mehrotra & Anr. Vs. The State of UP & Anr.**, reported in 2012 (10) SCC 741, and in the case of **K. Subba Rao & Ors. Vs. The State of Telangana and Ors.**,



reported in **2018 (14) SCC 452** has held as follows:

“17. The abovementioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-AIPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them”

(Emphasis supplied)

17. Now coming to the case in hand, this Court is of the opinion that no specific role has been attributed to the petitioners as to how they were instrumental in causing the demand of dowry and torture. None of the petitioners have been assigned any role in furtherance of the general allegation made against them, thus one fails to ascertain the role played by each accused in furtherance of the offence. The omnibus allegation can at best be said to have been made on account of small



skirmishes, which even if taken to be true cannot constitute an offence, as alleged in the F.I.R.

18. In view of the aforesaid facts and the guidelines issued by the highest Court of the land time to time, this Court finds that the very continuation of the present proceeding arising out of Shri Krishnapuri P.S. Case No. 90 of 2019, as also the order taking cognizance dated 01.10.2019 as well as the order framing charge dated 20.12.2022 against the petitioner nos. 2, 3 and 4 are an abuse of the process of the Court and thus fit to be quashed for the ends of justice.

18. The present quashing application stands allowed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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