

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18409 of 2023

Arising Out of PS. Case No.-70 Year-2016 Thana- MAHILA PS District- Jehanabad

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1. SMT. SURMA DEVI Wife of Late Parmanand Sharma Resident of Village-Samarkand, Police Station-Ghoshi, District-Jehanabad. At present residing at Flat No.-301, Shyam Villa Apartment, Indra Nagar, Police Station-Patliputra, District-Patna.
 2. SMT. SHOBHA KUMARI @ SHOBHA DEVI Wife of Sri Rajeev Nayan Resident of Mohalla-C.S. Mukharjee Street, Flat No.-3/4 16 Kone Nagar Hugli, West Bengal

... .. Petitioner/s

Versus

1. The State of Bihar
2. JULLI KUMARI BHARDWAJ Wife of Sujay Kumar Resident of Village-Samarkand, Police Station-Ghoshi, District-Jehanabad. At present D/o Arvind Kumar, Resident of village-Algana, Police Station-Kako, District-Jehanabad.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar No2, Advocate
For the Opposite Party/s : Mr. Chandra Bhushan Prasad, A.P.P.
Mr. Amresh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 11-03-2024 This application has been filed for quashing of order dated 03.11.2022 passed in Cr. Revision No. 39/2022 by the District and Sessions Judge, Jehanabad, whereby and where under the revision application filed by the petitioners has been dismissed and further for quashing the order dated 20.06.2022 passed in Jehanabad (Mahila) P. S. Case No. 70 of 2016 by the Sub-Divisional Judicial Magistrate, Jehanabad by which the discharge petition filed by the petitioners under Section 239 Cr.P.C. has been rejected.



2. Petitioner No.1 is mother-in-law and petitioner No.2 is sister-in-law of opposite party no.2.

3. As per the prosecution case, the opposite party No. 2 was subjected to torture due to non-fulfillment of demand of dowry.

4. While denying the allegations, learned counsel for the petitioners submits that even if the entire facts mentioned in the F.I.R. is taken into consideration in its entirety, no *prima facie* case is made out against these petitioners. It is next submitted that the F.I.R. does not disclose any distinct role or contribution of these petitioners in the alleged occurrence. It is further contended that the entire prosecution case is doubtful and only on general and vague allegation, petitioners have falsely been implicated in this case. Therefore, the continuation of proceeding against these petitioners is a clear abuse of process of law and that would result in causing injustice to them. 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 opposite party no. 2



have 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 opposite Party No. 2, both mentally and physically. There is sufficient material on record against them 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 counsel appearing on behalf of the parties and on perusing the materials available on record, and the F.I.R., it appears that only omnibus allegations have been made against these petitioners, as such, they do not warrant prosecution.

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 & Anr. versus State of Jharkhand & Anr.*** reported in (2010) 7 SCC 667 and ***Kahkashan Kausar alias Sonam & Ors versus State of Bihar & Ors*** 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, order dated 03.11.2022 passed in Cr. Revision No. 39/2022 by the District



and Sessions Judge, Jehanabad and the order dated 20.06.2022 passed in Jehanabad (Mahila) P. S. Case No. 70 of 2016 by the Sub-Divisional Judicial Magistrate, Jehanabad with respect to these petitioners, is hereby quashed.

9. This application is accordingly allowed.

(Prabhat Kumar Singh, J)

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