

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23594 of 2023

Arising Out of PS. Case No.-81 Year-2021 Thana- MAHILA P.S. District- Saran

1. Sanju Devi @ Sanju Devi Wife Of Sri Satish Singh Resident Of Village- And Po Amhar, Ps- Rasara, District- Ballia (UP) 221712 And Presently Resides At S-90, Gali No. 10, Near Mother Dairy, Pandav Nagar, Delhi- 110092
2. Diwakar Singh Son Of Late Dinanath Singh Resident Of Village- And Po- Majhauwan, Ps- Haldi, Distt- Ballia , Up And Presently Resides At Flat No. 301, 59 Dharmtola Road, Haora (M. Crop) Distt- Howrah, West Bengal 711106
3. Umesh Kumar Singh @ Umesh Singh @ Sonu Son Of Diwakar Singh Resident Of Village- And Po- Majhauwan, Ps- Haldi, Distt- Ballia (UP), Presently Resides At C/O Arun Ganguly 41/30, Nsc Bose Road, Kolkatta, West Bengal , Pin 70040
4. Ritesh Kumar Singh @ Tunnu Son Of Diwakar Singh Resident Of Village- And Po- Majhauwan, Ps- Haldi, Distt- Ballia (UP) Presently Resides At Flat No. 301, 59 Dharmtola Road, Haora (M. Crop) Distt- Howrah, West Bengal 711106

... .. Petitioner/s

Versus

1. The State of Bihar BIHAR
2. Chandani Singh Wife Of Brajesh Kumar Singh R/O Hal Mokama, Yoginya Kothi, Thana- Chapra Towan (saran), Distt- Saran

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 16624 of 2022

Arising Out of PS. Case No.-81 Year-2021 Thana- MAHILA P.S. District- Saran

1. DEEPIKA SINGH Wife of Sri Rakesh Kumar Singh Resident of Village and P.O. - Majhauwan, P.S. - Haldi, District - Balia, and Resident of Mohalla - At Flat No.- 301, 59, Dharmtala Road, Hawrah (M. Corp), District - Hawrah, West Bengal - 711106, Presently resides of Flat No.- 303, Block No.- C 2, Magnolia Oxygen SRCM Road, Kalaberia, Bishnupur, New Town, P.S.- Rajarhat, Kalkata, West Bengal - 700135.



2. Rakesh Kumar Singh Son of Sri Diwakar Singh Resident of Village and P.O. - Majhauwan, P.S. - Haldi, District - Balia, and Resident of Mohalla - At Flat No.- 301, 59, Dharmtala Road, Hawrah (M. Corp), District - Hawrah, West Bengal - 711106, Presently resides of Flat No.- 303, Block No.- C 2, Magnolia Oxygen SRCM Road, Kalaberia, Bishnupur, New Town, P.S.- Rajarhat, Kalkata, West Bengal - 700135.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Chandani Singh Wife of Brajesh Kumar Singh Resident of Jogia Koti, P.S. - Chapra, District - Chapra

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 23594 of 2023)

For the Petitioner/s : Mr.Nawnit Kumar Tiwary

For the Opposite Party/s : Mrs.Indu Kumari Srivastava

(In CRIMINAL MISCELLANEOUS No. 16624 of 2022)

For the Petitioner/s : Mr. Binay Kumar Singh

For the Opposite Party/s : Mr. Gulnar Begum

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 20-08-2024

Ref:- Cr. Miscellaneous No. 23594 of 2023

Heard learned counsel for the parties.

2. This application has been filed for quashing of the order dated 04.11.2022 passed by learned Sub Divisional Judicial Magistrate, Chapra (Saran) by which cognizance has been taken against the petitioners no. 1, 3 and 4 registered under section 498A of the Indian Penal Code, 1860 and u/s 3/4 of the Dowry Prohibition Act, 1961.

3. Learned counsel for the petitioners prays for and is permitted to withdraw the application filed on behalf of the



petitioner no. 2, Diwakar Singh with liberty to raise all the grounds at the stage of framing of charge.

4. Accordingly, the present application is dismissed as withdrawn on behalf of the petitioner no. 2.

5. So far as, petitioner no. 1 is concerned, she is married sister-in-law (*Nanad*), petitioner no. 3 and 4 are the brother in law of the opposite party no. 2.

6. As per the prosecution case, due to non-fulfillment of demand of dowry, the accused persons tortured the informant and ousted her from the house.

7. Learned counsel for the petitioners submitted that the petitioners no. 1, 3 and 4 are not involved in the demand of dowry and torture. There is general and omnibus allegation against the petitioners no. 1, 3 and 4 who are *nanad* and junior members of the family.

8. Learned APP for the State and learned counsel for the opposite party no. 2 have opposed the prayer of the petitioner.

9. The Hon'ble Supreme Court in the case of ***Preeti Gupta & Anr. Vs. State of Jharkhand & Anr*** reported in (2010) 7 SCC 667, and in the case of ***Kahkashan Kausar alias Sonam Vs. State of Bihar*** reported in (2022) 6 SCC 599 and in the



case of *Achin Gupta Vs. State of Haryana & Anr* reported in **2024 SCC Online SC 759** has deprecated the practice of falsely implicating the relatives of the husband in a matrimonial dispute.

10. Considering the fact that the petitioners are members of the family and are not directly involved in the demand of dowry, this application is partly allowed with respect to the petitioners no. 1, 3 and 4 only.

11. The order dated 04.11.2022 passed by learned Sub Divisional Judicial Magistrate, Chapra (Saran) by which cognizance has been taken is hereby quashed with respect to the petitioners no. 1, 3 and 4.

12. The Principal Judge, Family Court, Saran will dispose of the Maintenance Case No. 190/2024 within four months and learned counsel for the petitioners has undertaken that the husband of the opposite party no. 2 will appear in the maintenance case within two weeks from today. The court below will proceed *ex-parte* against the non-cooperating party.

Cr. Miscellaneous No. 16624 of 2022

Interlocutory Application No. 01 of 2023

13. This application has been filed on behalf of the petitioners for amendments in the relief portion i.e. Paragraph



no. 1 of the quashing application and consequently in the prayer portion thereof.

14. The amendment sought through the present interlocutory application is as follows:

"For quashing the order dated 04.11.2022 passed by the court of learned S.D.J.M., Saran, Chapra in Mahila P.S. Case No. 81/2021 dated 06.11.2021 by which cognizance has been taken under section 498A of the I.P.C. and section 3/4 of the D.P. Act and summoned directed to be issued against the petitioners.

Pass Interim /Ad-interim relief staying the further prosecution arising out of present F.I.R. bearing Mahila P.S. Case No. 81/2021 pending before the court of Ld. S.D.J.M., Saran, Chapra.

For correction of address of Opp. Party no. 2 i.e. Chandani Singh w/o Brajesh Kumar Singh, R/o- village- Joginiya Kothi, P.S.- Chhapra, District- Saran, Bihar, Pin Code- 841301 instead of Chandani Singh, w/o Brajesh Kumar Singh, R/o- village- Jogia Koti, P.S.- Chapra, District- Chapra.

15. For the reasons mentioned in this application, this Interlocutory Application No. 01 of 2023 is allowed.

16. This application has been filed for quashing of



the F.I.R. in Saran Mahila P.S. Case No. 81/2021 by which Officer in Charge of Saran Mahila Police Station has lodged F.I.R. against these petitioners and other several accused persons, registered for the offence u/s 498A of the Indian Penal Code and section 3/4 of the Dowry Prohibition Act.

17. So far as, petitioner no. 1 is concerned, she is sister-in-law (*gotni*) and petitioner no. 2 is the brother in law (*bhaisur*) of the opposite party no. 2.

18. Learned counsel for the petitioners has submitted that there is general and omnibus allegation against the petitioners.

19. The Hon'ble Supreme Court in the case of *Preeti Gupta & Anr. Vs. State of Jharkhand & Anr* reported in (2010) 7 SCC 667, in the case of *Kahkashan Kausar alias Sonam Vs. State of Bihar* reported in (2022) 6 SCC 599 and in the case of *Achin Gupta Vs. State of Haryana & Anr* reported in 2024 SCC Online SC 759 has deprecated the practice of falsely implicating the relatives of the husband in a matrimonial dispute.

20. Considering the fact that the petitioners are members of the family and are not directly involved in the demand of dowry, this application is allowed.



21. The F.I.R. of Saran Mahila P.S. Case No. 81/2021 registered u/s 498A of the I.P.C. and section 3/4 of the Dowry Prohibition Act is hereby quashed with respect to the petitioners only.

(Sandeep Kumar, J)

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