

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24177 of 2023

Arising Out of PS. Case No.-175 Year-2022 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Rangita Devi @ Ranjita Devi Wife Of Shankar Chaudhary @ Shiv Shankar Chaudhary Resident Of Ward No.- 30, Biratpur, Police Station - Aurangabad, District - Aurangabad.
 2. Ravi Shankar Chaudhary @ Shankar Chaudhary Son Of Sadhu Charan Chaudhary Resident Of Ward No.- 30, Biratpur, Police Station - Aurangabad, District - Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pinki Chaudhary Wife of Amit Kumar R/o- Ram Mandir, Ganesh Nagar, Ward No.- 5, Jamula Bhilai, Post - Jamun, District - Durg, Chhatisghadh, A/P- Chitabakala, Police Station - Sherghati, District - Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravindra Kumar, Advocate
For the Opposite Party/s : Mr.Raj Kishor Singh, Addl Public Prosecutor

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 15-04-2024 Heard learned counsel for the petitioners and the State. Nobody appears for opposite party no.2 inspite of valid service of notice.

2. This application has been filed for quashing order dated 23.5.2022 passed in Trial No. 2270/2022 arising out of Complaint Case No. 0175 of 2022, whereby and whereunder cognizance has been taken against the petitioners and other accused persons for offence punishable under sections 498 (A), 379, 323, 504, 506/34 of the I.P.C. as well as sections 3 & 4 of the Dowry Prohibition Act.



3. Prosecution story in brief is that Pinki Chaudhary (informant-Opposite Party No. 2) in her complaint petition before Learned Additional Chief Judicial Magistrate, Sherghati, Gaya alleged that on 07.03.2019, marriage of the complainant as per the Hindu rites and rituals was solemnized with Amit Kumar Chaudhary. At the time of marriage complainant's parents gave Rs five lakh cash, a gold chain of 01 bhar which costs about Thirty thousand rupees utensils, clothing and furniture of about one lakh Rupee. It is further alleged that from the next day of marriage all the complaint named accused started teasing her that they married Amit Kumar in a pauper house and they have been nothing received as per their status and the articles they got are also of poor quality. It is further alleged that her mother-in-law and elder brother-in-law (bhaisur) also taunted her that they have not been welcomed properly and not given good cloths in marriage ceremony. It is further alleged that thereafter her mother- in-law, elder brother-in-law (bhaisur) and Guddu Chaudhary told her to bring one four-wheeler vehicle or Rupees six lakhs' cash from her parents otherwise they will not allow her to live peacefully in matrimonial home and will re-marry Amit to anywhere else. It is further alleged that when she complained it to her husband then he also supported their



demand and told her to fulfill the demand in any situation. When complainant pleaded inability of her father in fulfilling demand, he is already deep in debt then her husband abused her and threatened her of ousted her from the house. It is further alleged that thereafter all the accused persons started torturing her mentally. physically and emotionally and they made her work as a servant. It is further alleged that whenever she used to sit for eating her mother-in-law use to throw her plate and forced her to do the house work and on refusal her mother-in-law, husband and elder brother-in-law (bhaisur) used to beat her. It is alleged that when the complainant communicated the above-mentioned facts to her parents, they came to her matrimonial home along with other respected persons and tried to persuade her husband and in-laws but again they kept their same demand started abusing and assaulted with them and kicked out of the house and also sent the complainant to her maika then parents of complainant given Rs. 2 lakhs to the petitioners but after sometimes they again started to assault and in the month of January, 2022 at 04:00 pm in the evening they all assaulted and snatched gold chain costs Rs. 40,000/- and all things which she had and kicked out of their house along with her child of aged about 2 years.



4. While denying the allegations, learned counsel for the petitioners submits that petitioner No. 1 is elder sister of the husband of the complainant and Petitioner No. 2 is husband of petitioner No. 1 i.e., bahnoi of complainant's husband. It is submitted that these petitioners are falsely implicated in present case with ulterior/oblique motive just because they are relatives of her husband. on 16-02-2022 a representation by the husband of opposite party no.2 was sent to the Superintendent of Police, Durg, Chhattisgarh with regard to the ill behavior of his wife with him and his family members due to which they are harassed mentally and physically. It is also submitted that compromise took place in October 2021 between the husband and wife at Purani Bhulayi Police station in which both of them agreed not to fight and will live peacefully in a rented house till their parents settle the matter and thereafter they resided in rented rooms. After so many attempts made by the accused to solve their marital issues on 23-11-2021 a divorce petition has been filed before the Principal Family Court, Durg, Chhattisgarh, by accused No. 1 i.e., husband of the complainant which is at present pending in the court of Principal Family Judge, Durg, Chhattisgarh. A divorce petition has been filed by husband of the complaint. Thereafter, she filed the present false,



fabricated complaint case dated 29-03-2022 with the sole purpose of taking revenge and to do maximum damage of the reputation of her in-laws and in this attempt, she implicated the above- named petitioners also as they are relatives of her husband. Moreover, petitioners reside at different place and they are separate in mess and business and have no concern with the affairs of the opposite party no.2 and her husband. Allegation of torture and harassment is general and omnibus and no specific overt act has been alleged against these petitioners and as such continuation of proceedings against these petitioners would amount to abuse of the process of the court in absence of clear allegations against the relatives of husband and they do not warrant prosecution. 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 has opposed the arguments advanced on behalf of the petitioners and submits that petitioners are named in the complaint and they were instrumental in torturing the informant/opposite party no. 2, both mentally and physically. From perusal of complaint, it reflects that 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 submissions advanced by learned counsel appearing on behalf of the parties and perusing the materials available on record, this Court is of the opinion that merely by making general allegations that the petitioners were involved in physical and mental torture of the informant/opposite party no.2, continuation of proceedings against these petitioners would amount to abuse of the process of the court. 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 these petitioners, it would be unjust if the petitioners are forced to go through the tribulations of a trial.

7. In view of the foregoing discussions, order dated 23.5.2022 passed in Trial No. 2270/2022 arising out of Complaint Case No. 0175 of 2022, is hereby quashed with respect to these petitioners.



8. Accordingly, the present quashing application is
allowed.

(Prabhat Kumar Singh, J)

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