

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31242 of 2023

Arising Out of PS. Case No.-396 Year-2018 Thana- BHAGWAN BAZAR District- Saran

1. LADDU MAHTO @ MUKESH MAHTO Son of Bhola Mahto Resident of village-Daulatganj Nilami Kothi, P.S.-Bhagwan Bazar, District-Saran at Chapra
2. BHOLA MAHTO Son of Late Dinanath Mahto Resident of village-Daulatganj Nilami Kothi, P.S.-Bhagwan Bazar, District-Saran at Chapra
3. SONA DEVI Wife of Bhola Mahto Resident of village-Daulatganj Nilami Kothi, P.S.-Bhagwan Bazar, District-Saran at Chapra
4. NIRMALA DEVI Daughter of Bhola Mahto Resident of village-Daulatganj Nilami Kothi, P.S.-Bhagwan Bazar, District-Saran at Chapra
5. REKHA DEVI Daughter of Bhola Mahto Resident of village-Daulatganj Nilami Kothi, P.S.-Bhagwan Bazar, District-Saran at Chapra
6. RAKESH MAHTO Son of Bhola Mahto Resident of village-Daulatganj Nilami Kothi, P.S.-Bhagwan Bazar, District-Saran at Chapra
7. HARERAM MAHTO Son of Bhola Mahto Resident of village-Daulatganj Nilami Kothi, P.S.-Bhagwan Bazar, District-Saran at Chapra

... .. Petitioner/s

Versus

1. The State of Bihar
2. RENU DEVI Wife of Laddu Mahto, Daughter Late Yogendra Mahto Resident of village-Daulatganj Nilami Kothi, P.S.-Bhagwan Bazar, District-Saran at Chapra Presently residing at Village Naini, P.S. Chapra Mufassil, District Saran at Chapra

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashutosh Kumar Singh, Advocate
For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 22-04-2024 Heard learned counsel for the petitioners, learned

A.P.P. for the State and learned counsel for the Opposite Party

No. 2.

2. At the outset, learned counsel appearing on behalf

of the petitioners seeks permission to withdraw the quashing

application on behalf of the Petitioner No. 1.



3. Permission is accorded.

4. This quashing application on behalf of Petitioner No. 1 is dismissed as withdrawn.

5 . Heard learned counsel for the petitioner Nos. 2 to 7 and the OP 2 and the State .

6. This application has been filed for quashing the order dated 16.11.2021 passed in Bhagwan Bazar P . S Case No. 396 of 2018 ,subsequent Trial No. 2683 of 2023 by learned Chief Judicial Magistrate , Saran at Chapra where by and where under cognizance for the offences punishable under Sections 341 , 323 , 324, 504, 379, 506, 498A and 34 of I . P . C . and section 3/ 4 of the D. P Act has been taken against these petitioners.

7. The prosecution story, in brief, is that the complainant/Opposite Party No. 2 got married with Petitioner No. 1 n 16.07.2012. After some time of the marriage , all the accused persons, including these petitioners, demanded Rs. 2 lakhs and a motorcycle and due to non-fulfillment of demand for dowry started torturing and harassing the complainant/Opposite Party No. 2. It is further alleged that on 15.05.2018 complainant came to know that her husband solemnized another marriage and on protest from the



complainant she was ousted from her matrimonial house and since 15.11.2016 the complainant is residing in her parent' with her daughter.

8 . Learned counsel appearing on behalf of the petitioners submits that Petitioner No. 2 is father-in-law, petitioner No. 3 is mother-in-law , petitioner Nos. 4 and 5 are sisters-in-law and petitioner Nos. 6 and 7 are brothers-in-law of the opposite Party No. 2. They are separate in mess and property. It is next submitted that they have nothing to do with the affairs of the complainant/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 petitioner Nos. 2 to 7 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.



9. On the other hand, learned A.P.P. for the State and learned counsel appearing on behalf of the 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 .

10 . Having heard the submissions advanced by learned counsels 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 also involved in physical and mental torture of the informant/Opposite Party No. 2, without mentioning even a single incident against them, they have been made an accused in this case .

11 . 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.

12. In view of the foregoing discussions, the order of cognizance order dated 16.11.2021 passed in Bhagwan Bazar P . S Case No. 396 of 2018 ,subsequent Trial No. 2683 of 2023 by learned Chief Judicial Magistrate , Saran at Chapra is hereby quashed with respect to Petitioner Nos. 2 and 7 only .

13 . Accordingly, the present quashing application is disposed of.

(Prabhat Kumar Singh, J)

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