

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35133 of 2024

Arising Out of PS. Case No.-73 Year-2019 Thana- EAST COLONY District- Munger

1. Sushma (female), aged about 36 years.
2. Ruby Kumari (female), aged about 34 years.
3. Babi Devi (female), aged about 55 years.

All are Daughter of Late Bishwanath Das, Resident of Doctor Toli,
Goshala Road, Ward No.- 07, Police Station - Mokama, District - Patna.

... .. Petitioners

Versus

1. The State of Bihar
2. Rupam Kumari Daughter of Pramod Kumar Gupta Resident of Mohalla -
Mungroura, Sikandarpur, P.O.- Jamalpur, P.S.- East Colony, District -
Munger.

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr. Gyanendra Kumar Singh
For the State	:	Mr. Ajay Kumar Jha, APP
For the Opp. Party No.2	:	Mr. Nawal Kishore Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL JUDGMENT

Date : 23-09-2024

Heard learned counsel for the petitioners, learned
counsel for the State and learned counsel for the opposite party
no.2.

2. This application has been filed for quashing
the order dated 18.12.2023 passed by the learned Additional
Chief Judicial Magistrate, 1st, Munger, in East Colony P.S. Case
No.73 of 2019, by which the learned Magistrate has rejected the
discharge application filed by the petitioners.

3. In the F.I.R., it has been alleged by the



informant that negotiation of her marriage was going on with one Pappu Kumar but, due to some reasons the marriage could not be finalized. After some time, the younger brother of said Pappu Kumar namely, Pawan Kumar proposed to marry the informant. The family members of the informant refused the proposal of said Pawan Kumar but subsequently, they agreed for the marriage and accordingly, the marriage of the informant was solemnized with said Pawan Kumar. It has further been alleged that after the marriage, Pawan Kumar took the informant to Patna where they stayed in a hotel and established physical relationship. Thereafter, said Pawan Kumar sent the informant to her parental home at Jamalpur.

3.1. It has further been alleged that thereafter the informant and her husband were in touch through mobile but after some time, her husband stopped talking to her. Therefore, the informant along with her mother and maternal uncle visited the work place of her husband and after showing the photographs and documents of the marriage, the superior officers took the informant to the quarter of her husband but, on the next day, the sisters of her husband came there and ousted the informant from the quarter after humiliating and assaulting her.



4. After investigation, the charge-sheet was submitted by the police against the petitioners and accordingly, cognizance was taken. The petitioners have filed a discharge petition, which has been rejected by the impugned order.

5. Considered the submissions of the parties and parties and perused the materials on record.

6. From reading of the F.I.R., it appears that the main thrust of the allegation is against Pawan Kumar-husband of the informant i.e. the brother of the petitioners. The allegation against Pawan Kumar is of getting married to the informant, consummating the marriage and thereafter deserting her. The allegation against these petitioners is that they are sisters of Pawan Kumar and they had come to the residence of Pawan Kumar and after abusing and humiliating the informant threw her out of the house. The date and time of occurrence with regard to the present petitioners is not mentioned in the F.I.R. No other material has come during investigation to connect the petitioners with the crime, save and except, general and omnibus allegation. From the materials available on record and the evidence collected during investigation, no case for framing of charge against the petitioners is made out.

7. Further, the petitioners have been made



accused merely because they are the sisters of Pawan Kumar, who is the husband of the informant. This tendency of making all the family members of the husband of the informant as accused has been deprecated by the Hon’ble Supreme Court in the case of *Preeti Gupta vs. State of Jharkhand* reported as *(2010) 7 SCC 667*; *Kahkashan Kausar vs. State of Bihar* reported as *(2022) 6 SCC 599* and *Achin Gupta vs. State of Haryana* reported as *2024 SCC OnLine 759*. This is apparent in the present case also.

8. In view of the aforesaid discussions, this application is allowed. Accordingly, the impugned order dated 18.12.2023 passed by the learned Additional Chief Judicial Magistrate, 1st , Munger is hereby quashed with respect to present petitioners only.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	30.10.2024
Transmission Date	30.10.2024

