

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32438 of 2023

Arising Out of PS. Case No.-122 Year-2022 Thana- COMPLAINT CASE District- Lakhisarai

1. Kumar Chiranjeev Jha S/O Of Mundrika Jha Resident Of D.T. -1031, Ram Side, P.O. And P.S. Dhurwa, District Ranchi (Jharkhand), Pin 823004
2. Mundrika Jha S/O Of Late Dasrath Jha Resident Of D.T. -1031, Ram Side, P.O. And P.S. Dhurwa, District Ranchi (Jharkhand), Pin 823004
3. Runi Jha @ Runa Jha W/O Mundrika Jha Resident Of D.T. -1031, Ram Side, P.O. And P.S. Dhurwa, District Ranchi (Jharkhand), Pin 823004
4. Kumari Snehlata @ Snehlata Jha @ Tinki W/O Rajnish Jha Resident Of D.T. -1031, Ram Side, P.O. And P.S. Dhurwa, District Ranchi (Jharkhand), Pin 823004

... .. Petitioner/s

Versus

1. The State of Bihar
2. KUMKUM SHIVA DR. GOPAL JHA VILLAGE RAMPUR, PO AND PS MANANPUR
3. Kumkum Shiva D/o of Dr. Gopal Jha Resident of Village- Rampur, P.O. and P.S.- Mananpur, District- Lakhisarai (Bihar), PIN 811310

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Jha, Advocate
For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 01-04-2024 At the outset, learned counsel for the petitioner s seeks permission to withdraw this application with regard to petitioner No. 1 who is husband of Opposite Party no. 2.

2. Permission is accorded.

3 . The quashing petition is dismissed with respect to petitioner No. 1 .

4. Heard learned counsel for the petitioner Nos. 2, 3 and 4, Opposite party No. 2 and the State .



5 . This application has been filed for setting aside the impugned cognizance order dated 16.09.2022 passed by the Court of learned Sub-divisional Judicial Magistrate, Lakhisarai in connection with Complaint Case No.- 122(C) / 2022 dated 24.03.2022 instituted against four accused – petitioners for the offence u/s- 498(A) of the Indian Penal Code in order to prevent abuse of the process of the Court below and to secure the ends of justice .

6. The prosecution case, in brief, is that the complainant, namely, *Kumkum Shiva*, solemnized marriage with co-accused *Kumar Chiranjeev*, and after marriage, her husband along with her in-laws started torturing the complainant for dowry. It is further alleged that the complainant's husband came to "*sasural*" and took his wife, O.P. No. 2, to *Dhurwa, Ranchi*, on March 11, 2019, where the in-laws taunted O.P. No. 2 for dowry, and further, they demanded Rs. 3 lakhs from her. She shows the inability of her father-mother, upon which they started abuse and torture in different ways. The complainant, O.P. No. 2, became pregnant again, and as soon as her in-laws came to about this, they got her aborted, and accordingly, she miscarried on June 18, 2019. After the miscarriage, the complainant became very weak, and no treatment was made



available to her. After getting information, the complainant's father got her treated and went back, but she was continuously ill-treated and tortured by her in-laws, and ultimately she was locked in a room. Anyhow, the complainant informed at her "*naihar*," then her father, brother, and one witness came there on 31.7.2019, but they were not allowed to meet and asked to give three lakh rupees, upon which they tried to explain in-laws but failed. Thereafter, the complainant's father, brother, and two witnesses informed the *Dhurwa* police station, who came and found the complainant in an unconscious state. On 31.7.2019 itself, the complainant went to her "*naihar*," where her treatment and food and drink were done, and she became healthy. During lockdown, conversation between Complainant and her husband happened where her husband said that she will not be abused any more by him and he will come for parting complainant. On 17.3.2022, his husband came to his "*sasural*" at *Rampur*, where his opinion was good, and on 20.3.2022, he demanded Rs 3 lakh, upon which the complainant and her mother showed inability, to meet the demand of dowry , then her husband abused them and threatened that if the complainant came to *Dhurwa*, she would be killed.

7. Subsequently, Complaint Case No.- 122(C)/2022



dated 24.3.2022 has been instituted against four accused petitioners for the offences under sections- 498(A) of Indian Penal Code & Sections- 3 & 4 of the Dowry Prohibition Act.

8 . While denying the allegations, learned counsel for the petitioners submits that petitioner No. 2 is father-in-law, petitioner No. 3 is mother-in-law and petitioner No. 4 is married sister-in-law of the complainant. It is next submitted that the complainant 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 they have been made accused in this case . They are separate in mess and property and have no concern with the affairs of the couple . The present complaint case has been filed in retaliation of Divorce Case bearing Original Suit No. 170 of 2022 dated 03.03.2022 filed by the petitioner No. 1 namely Kumar Chiranjeev Jha before the Court of Family Judge, Family Court Ranchi and when notice was issued to Opposite Party No. 2 which was duly received on 08.03.2022 itself by Opposite Party No. 2 and thereafter, the present case has been filed. 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 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 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.

10 Having heard the submissions advanced by learned counsel appearing on behalf of the parties and on perusing the materials available on record, and the complaint, it appears that only omnibus allegations have been made by opposite party no.2.

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 & Anr. Versus State of Jharkhand & Anr.*** reported in ***(2010) 7 SCC 667*** 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, order dated 16.09.2022 passed by the Court of learned Sub-divisional Judicial Magistrate, Lakhisarai in connection with Complaint Case No.- 122(C) / 2022 dated 24.03.2022 with respect to petitioner Nos. 2, 3 and 4, is hereby quashed.

13 . This application is accordingly allowed.

(Prabhat Kumar Singh, J)

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