

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32292 of 2023

Arising Out of PS. Case No.-387 Year-2022 Thana- DAUDNAGAR District- Aurangabad

1. NILU KUMARI @ NILU DEVI D/o- RAM KRIPAL PRASAD, wife of Santosh Kumar Gupta Village- Rikabganj Ps- Tekari Dist- Gaya
2. Santosh Kumar Gupta son of Late Tetar Sah Village- Rikabganj Ps- Tekari Dist- Gaya
3. Dharamveer Nirala son of Jawahar Prasad Village- Bajrangbali Chowk, Ps- Maksubar Dist- Munger
4. Nitu Devi @ Nitu Kumari D/o- Ram Kripal Prasad, Wife of Dharamveer Nirala Village- Bajrangbali Chowk, Ps- Maksubar Dist- Munger
5. Alok Kumar Tandan son of Ram Kripal Prasad R/o- Main Road, Chawal Bazar, Ward no-19, Daudnagar Ps- Daudnagar Dist- Aurangabad
6. Khushbu Kumari @ Khushbu Devi D/o- Ajay Krishna Prasad, Wife of Alok Kumar Tandan R/o- Main Road, Chawal Bazar, Ward no-19, Daudnagar Ps- Daudnagar Dist- Aurangabad

... .. Petitioners

Versus

1. The State of Bihar
2. Aarti Kumari D/o- Ramji Prasad Gupta R/o- Lakhan More Daudnagar Ps- Daudnagar Dist- Aurangabad

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Mrigendra Kumar, Advocate
		Ms/Mrs. Kusum Kumari, Advocate
For the Opposite Party/s :		Mr.Mohammad Sufyan, Addl Public Prosecutor

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 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 10.8.2022/16.11.2022 passed in GR No. 789 of 2022, Daudnagar Police Station Case No. 387 of 2022, whereby and whereunder cognizance has been taken against the petitioners



and other accused persons for offence punishable under sections 498 (A)/34 of the I.P.C. as well as sections 3 & 4 of the Dowry Prohibition Act.

3. The prosecution case, in brief, is that opposite party no.2 lodged a written report before S.H.O., Daudnagar P.S. on 11.07.2022, alleging therein that her marriage was solemnized with co-accused Chandan Kumar on 14.05.2018, according to Hindu Rites & Rituals at Deo Kund Temple. After marriage she resided with co-accused Chandan Kumar at Delhi. She lived with her husband and after sometime a baby girl has born out. Thereafter, she was subjected to cruelty for demand of dowry. when resist that her parents are poor and they cannot fulfil the demands, she was assaulted and also knocked out ber daughter. Anyhow she and her daughter escaped. The matter was informed to parents of her husband and near relatives, pursuant thereto they also abuse her and told that how are you alive, why he should not kill you. They refuse to keep her. It is further alleged that her husband bring her at Daudnagar and in spite of keeping her in matrimonial home, left her at Maike and told her that now there is no relationship, on protest she was assaulted with fists and slaps. It is alleged that in her harassment her Husband, Father- in-Law, Mother-in-Law, Jeth,



Jethani, Nanad and Nandosri are involved.

4. learned counsel for the petitioners submits that petitioner nos. 1 & 4 are married sister of her husband and petitioner nos.2 & 3 are sister-in-law (husband of petitioner nos. 1 & 4). Petitioner no.5 is Jeth and petitioner no.6 is Jethani. Petitioner nos.5 & 6 are concern, they are Jeth and Jethani, having no concern with the family affairs of co-accused Chandan Kumar and are separate in mess and business with the co-accused Chandan Kumar. petitioner no.2 Santosh Kumar is the Central Government Employee under Central Railway and posted under Divisional Office, Bhusaval as Goods Guard. His Identity Card is annexed herewith for kind perusal of the Hon'ble Court. Petitioner no.3 Dharamveer Nirala is also State Government Employee under District Panchayati Raj Department, Government of Bihar as Executive Assistant at H. Khagarpur, Munger. It is further submitted that from the FIR, itself, it is manifest that the opposite party no.2 had taken the name of the petitioners on a mere casual reference, without any allegation of the involvement in the offence, is not sufficient for taking cognizance.

5. Learned counsel submits that whole prosecution story mentioned in FIR is totally false, fabricated and



concocted. 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 relatives of husband. It is next submitted that the FIR 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 petitioners 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.**

6. 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 FIR and they were instrumental in torturing the informant/opposite party no. 2,



both mentally and physically. From perusal of the FIR, 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.

7. 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.

8. In view of the foregoing discussions, orders dated 10.8.2022/16.11.2022 passed in GR No. 789 of 2022,



Daudnagar Police Station Case No. 387 of 2022 is hereby
quashed with respect to these petitioners.

9. Accordingly, the present quashing application is
allowed.

(Prabhat Kumar Singh, J)

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