

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42239 of 2021

Arising Out of PS. Case No.-65 Year-2021 Thana- PANAPUR District- Saran

1. Mustafa Raza Khan Jilani S/o Mahboob Alam Khan R/o village- Stajora, P.O.- Satjora Bazar, P.S.- Panapur, District- Saran at Chapra, Pin Code- 841410
2. Ahmad Raza Khan @ Gore Khan S/o Mahboob Alam Khan R/o village- Stajora, P.O.- Satjora Bazar, P.S.- Panapur, District- Saran at Chapra, Pin Code- 841410
3. Arif Raza @ Arif Raza Khan @ Arif Khan S/o Kaushar Ali Khan R/o village- Semra, P.O.- Bada Chkiya, P.S.- Bada Chakiya, District- East Champaran at Motihari, Pin Code- 845412, Permanent R/o village- Stajora, P.O.- Satjora Bazar, P.S.- Panapur, District- Saran at Chapra, resently residing at C- 14, Third Floor, F/P- Shaheen Bagh, Thoker No. 8, Abul Fazal Enclave-2, Jamia Nagar, Okhla New Delhi Pin Code- 110025
4. Aman Raza Khan @ Aman Khan S/o Ahmad Raza Khan Not Mentioned
5. Afsana Khatun W/o Ahamad Raza Khan R/o village- Stajora, P.O.- Satjora Bazar, P.S.- Panapur, District- Saran at Chapra, Pin Code- 841410
6. Musmat Mahe Telat Phatma @ Sudhri W/o Late Kaushar Ali Khan R/o village- Semra, P.O.- Bada Chkiya, P.S.- Bada Chakiya, District- East Champaran at Motihari, Pin Code- 845412

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shahre Alam Khan S/o Amir Alam Khan R/o village- Stajora, P.O.- Satjora Bazar, P.S.- Panapur, District- Saran at Chapra

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jeetendra Narayan
For the Opposite Party/s : Mr.Ganesh Prasad Singh

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 20-04-2024 Heard learned counsel for the petitioners and learned A.P.P. for the State. Despite valid service of notice, nobody appears on behalf of opposite party no. 2.

2. This application has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing the F.I.R.



i.e. Panapur P.S. Case No. 65 of 2021 registered under Section 498A of the Indian Penal Code and Section 3 / 4 of the Dowry Prohibition Act.

3. The factual matrix of the prosecution case, in brief, is that one Shahre Alam Khan (informant) furnished a written report to the S.H.O. of Panapur police station stating therein that on 19.10.2018 his sister namely Saziya Firdoush was married with co-accused Akhtar Raza Khan Noomani as per Muslim right and rituals. On the eve of marriage ceremony, the informant gave furniture, electronic other items in valued of Rs. 4,50,000/- and Rs.1,50,000/- as cash for buying of Bullet motorcycle, but after the marriage, petitioner no.1 demanded a four wheeler vehicle, petitioner no.2 demanded Rs.5,00,000/- for developing his petrol pump business and on denying the same, petitioner no.3 to 6 assaulted her sister and snatched her mobile phone and ornaments and also stopped meal and clothes to her. It is further alleged that when informant learnt about the abovesaid incident and enquired about the same, all the petitioners got extremely anger over him and thereafter, petitioner no.1 shot fire from rifle at informant, which touched his neck and when the informant informed about the said episode to husband of his sister, he also abused him and



threatened to divorce informant's sister.

4. Petitioner nos. 1 & 2 are elder brothers, petitioner nos. 3 is *bhagina*, petitioner no. 4 is nephew, petitioner no. 5 is elder sister-in-law and petitioner no. 6 is married sister of husband of victim (informant's sister).

5. Learned counsel for the petitioners submits that petitioners are separate in mess and property and have got not concern with the affairs of the couple. So far as petitioner no.1 is concerned, who is elder brother-in-law of the victim, runs a lubricant business in his locality and always lives out from his permanent house and reside at Chapra Town with his family. Petitioner no.2 is also an elder brother-in-law (Bhaisur) who always engaged in petrol-pump business located at Bangra Ghat Road. Petitioner no.3 and 4 are students of Graduation and residing at New Delhi, petitioner no.5 is elder sister-in-law (Gotani) of the victim, who is housewife and has separate accommodation and petitioner no.6 is married sister-in-law (Nanad) who is also a widow and lives in her matrimonial house in the district of East Champaran at Motihari. He next submits that whenever there is dispute between husband and wife, entire family members are implicated in false and concocted case. Allegation of demand of dowry and torture is general and



omnibus. No specific date, time and place has been mentioned as to when victim was subjected to torture and harassment by these petitioners. Contents of F.I.R. do not disclose any direct role to these petitioners and as such, continuation of proceedings against these petitioners would amount to an 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***. On aforesaid grounds, learned counsel for the petitioners prays for quashing of F.I.R.

6. On the other hand, learned A.P.P. for the State vehemently opposes 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 sister of 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.

7. Having heard the submissions advanced by learned counsels appearing on behalf of the parties and perused the



materials available on record, and on perusal of the F.I.R., it appears that only omnibus allegations have been made by the informant. Neither date nor time or place has been mentioned by the informant as to when and where she was subjected to cruelty and harassment in regard to demand of dowry by these petitioners.

8. 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 face trial.

9. In view of the foregoing discussions, the F.I.R. i.e. Panapur P.S. Case No. 65 of 2021, with respect to these petitioners, is hereby quashed and accordingly, this petition is allowed.

(Prabhat Kumar Singh, J)

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