

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37936 of 2023

Arising Out of PS. Case No.-1738 Year-2022 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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1. Fatima Begum Wife Of Md Mukhtar Resident Of Village- Basudeva, Ps- Nawa Nagar, Distt- Buxar
 2. Md Mukhtar Son Of Sultan Miyan Resident Of Village- Basudeva, Ps- Nawa Nagar, Distt- Buxar
 3. Md. Salim Son Of Md Mukhtar Resident Of Village- Basudeva, Ps- Nawa Nagar, Distt- Buxar
 4. Md Shamim Son Of Md Mukhtar Resident Of Village- Basudeva, Ps- Nawa Nagar, Distt- Buxar
 5. Sajila Begum Wife Of Md Salim Resident Of Village- Basudeva, Ps- Nawa Nagar, Distt- Buxar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Hina Fatma Wife Of Md Idrish, D/O Md Danish Matofa Resident Of Village- Deshrajpur, Ps- Mahnar, Ward No. 21, Distt- Vaishali

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ram Prawesh Kumar, Adv.
For the State	:	Mr. Navin Kumar Pandey, APP
For the O.P. No. 2	:	Mr. Shrinandan Pd. Singh, Sr. Adv. Mr. Atul Prakash, Adv.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 01-04-2024 Heard learned counsel for the petitioners, learned counsel for the O.P. No. 2 and learned A.P.P. for the State.

2. It has been submitted that during pendency of the petition, petitioner no. 2 Md. Mukhtar, father-in-law of the O.P. No. 2 has already died. As such, the petition become infructuous with respect to the petitioner no. 2.

3. This application has been filed for quashing of the order dated 11.04.2023 passed in Complaint Case No. 1738 of

2022, whereby and where under the learned Judicial Magistrate, 1st Class, Vaishali at Hajipur took cognizance of the offences under Sections 323 and 498(A) of the I.P.C.

4. The case of the complainant in brief is that the marriage of the complainant was solemnized with Md. Idrish on 29.03.2018 according to Muslim rites and rituals and at the time of marriage, the parents of the complainant has given Rs. 6,51,000/- cash, 10 *bhar* gold and at the time of *bidagari*, also given the articles worth Rs. 4,00,000/- and when after marriage, the complainant went to her *sasural*, all the accused persons including these petitioners started torturing her for further demand of dowry.

5. It is further alleged that all the accused persons assaulted the complainant and on 02.11.2021, all the ornaments were snatched and her signature was taken on four plain paper and left her in Mahnar Bus stand. It is further alleged that she was ousted from the matrimonial house by the husband. At present, the complainant is residing at the house of her *Mama*.

6. It is submitted on behalf of the petitioners that petitioners have been falsely implicated in this case merely because they have been the relative of the husband of the O.P. No. 2. From perusing the F.I.R., no offence is made out against

these petitioners and only on the basis of family disputes, they have been falsely implicated in this case. Petitioner no. 1 is mother-in-law, petitioner no. 3 is *bhaisur*, petitioner no. 4 is *devar* and petitioner no. 5 is *gotni* of the complainant. They are separate in the said property and early been separated. He further submits that the gist of acquisition is against the husband of O.P. No. 2. So far as these petitioners are concerned, only vague reference has been made against them. The contents of the complaint do not disclose any active role against these petitioners. In absence of any specific and direct allegation, continuation of the proceedings against these petitioners would amount to abuse to the process of the Court. In this connection, learned counsel for the petitioners has placed reliance upon a judgment of the Hon'ble Apex Court passed in the case of ***Preeti Gupta & Anr. Vs. The State of Jharkhand & Anr.*** reported in ***(2010) 7 SCC 667***.

7. On the other hand, learned counsel for the O.P. No. 2 vehemently opposed the submissions made on behalf of the petitioners and while supporting the order of cognizance submits that as per complaint petition and deposition of witnesses, these petitioners also used to physically assault the complainant for the demand of dowry. At this stage, it cannot be

said that no *prima facie* case is made out against these petitioners.

8. Having heard the submissions advanced by learned counsel appearing on behalf of the parties and on perusing the materials available on record and the complainant, it appears that only omnibus allegations have been made by O.P. No. 2.

9. Therefore, upon consideration of the relevant circumstances and in the light of the law laid down by the Hon'ble Apex Court in the case of ***Preeti Gupta & Anr. Vs. The State of Jharkhand & Anr.*** reported in ***(2010) 7 SCC 667*** 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.

10. In view of the foregoing discussions and order dated 11.04.2023 passed in Complaint Case No. 1738 of 2022 by the learned Judicial Magistrate, 1st Class, Vaishali at Hajipur with respect to petitioner nos. 1, 3, 4 and 5 is hereby quashed.

11. This application is accordingly allowed.

(Prabhat Kumar Singh, J)

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