

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38888 of 2023

Arising Out of PS. Case No.-1050 Year-2022 Thana- SITAMARHI COMPLAINT CASE
District- Sitamarhi

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1. CHANDRIKA PRASAD @ CHANDRIKA SAH SON OF BILASH SAH
RESIDENT OF MOHALLA NAYA TOLA RIGA ROAD WARD NO 1, PS
SITAMARHI, DISTT- SITAMARHI
 2. URMILA DEVI WIFE OF CHANDRIKA PRASAD @ CHANDRIKA SAH
RESIDENT OF MOHALLA NAYA TOLA RIGA ROAD WARD NO 1, PS
SITAMARHI, DISTT- SITAMARHI
 3. ALOK KUMAR SON OF CHANDRIKA PRASAD @ CHANDRIKA SAH
RESIDENT OF MOHALLA NAYA TOLA RIGA ROAD WARD NO 1, PS
SITAMARHI, DISTT- SITAMARHI
 4. ADITI SONI WIFE OF ALOK KUMAR RESIDENT OF MOHALLA
NAYA TOLA RIGA ROAD WARD NO 1, PS SITAMARHI, DISTT-
SITAMARHI

... .. Petitioner/s

Versus

1. The State of Bihar
2. MAMTA DEVI WIFE OF LATE RAHUL KUMAR RESIDENT OF
VILLAGE -BEDAUL ADAM, PS- PURNAHIYA, DISTT- SHEOHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Sanjay Kumar, Advocate
For the Opposite Party/s :	Mr.Chandra Sen Prasad Singh, APP
For Opposite Party NO.2 :	None

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 15-04-2024 Heard learned counsel for the petitioners and

learned A.P.P. for the State. Despite valid service of notice,

nobody appeared on behalf of Opposite Party No.2.

2. This application has been filed under Section 482

of the Code of Criminal Procedure, 1973, on behalf of the

petitioners for quashing the order dated 16.11.2022 passed by



the learned Judicial Magistrate, First Class, Sitamarhi, in connection with Complaint Case No. 1050 of 2022, whereby and whereunder the learned Magistrate has taken cognizance of the offence under Sections 341, 323, 498A, and 34 of the Indian Penal Code against four accused persons, including these petitioners.

3. The case of the complainant in short is that Opposite Party No.2 was married with one Kundan Kumar on 19.04.2019 as per Hindu rights and rituals. Her first marriage was solemnized with Rahul Kuamr, elder brother of the petitioner on 14.05.2014 who died in a road accident. It is alleged that after marriage, she was subject to cruelty and harassment and ousted from her matrimonial house due to non-fulfillment of demand of dowry. During inquiry, the complainant examined herself upon oath and also produced four witnesses in support of her case who have been examined under Section 202 of Cr.P.C. and thereafter summons were issued against these petitioners.

4. Learned counsel for the petitioners submits that petitioners are relative of Opposite Party No.2 and have falsely been implicated in this case on the basis of general and omnibus allegation. Petitioner No.1 is father-in-law, petitioner



No.2 is mother-in-law, petitioner No.3, elder brother-in-law, petitioner No.4 is wife of petitioner No.3 . It is next submitted that whenever any dispute arises in between the husband and wife, entire family members are implicated in a mechanical manner with general and omnibus allegation. They are separate in mess and property. It is next submitted that they have nothing to do with the affairs of the informant/Opposite Party No. 2 and her husband 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.**

5. On the other hand, learned A.P.P. for the State has vehemently opposed 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 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.

6. Perused the pleadings of the parties, the complaint and order of learned Magistrate. Having taken into consideration all the materials available on record, I am satisfied that the criminal proceeding imitated by opposite party No.2 against these petitioners are wholly unwarranted. The complaint is on abuse of the process of Court. On perusal of compliant, it appears that only omnibus allegation have been made by complainant, neither date, nor time or place has been mentioned by her as and when she was subjected to cruelty and torture in regard to demand of dowry.

7. 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 go through the tribulations of a trial.

8. In view of the foregoing discussions, the order of cognizance dated 16.11.2022 passed by the learned Judicial



Magistrate, Ist Class, Sitamarhi, in connection with Complaint
Case No. 1050 of 2022, with respect to these petitioners is
hereby quashed.

9. Accordingly, the present quashing application is
allowed.

(Prabhat Kumar Singh, J)

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