

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44762 of 2023

Arising Out of PS. Case No.-213 Year-2021 Thana- DURAULI District- Siwan

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1. Madhu Devi Daughter Of Om Prakash Bhagat Resident Of Village- Kumhati, Ps- Darauli, Distt- Siwan
 2. Dipak Bhagat Son Of Om Prakash Bhagat Resident Of Village- Kumhati, Ps- Darauli, Distt- Siwan

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anita Devi Wife Of Dilip Kumar Bhagat Resident Of Village- Kumhati, Ps- Darauli, Distt- Siwan

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bijay Prakash Singh, Advocate
For the State	:	Mr. Murli Dhar, A.P.P.
for the O.P. No. 2	:	Mr. Sanjay Kumar Tiwari, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 01-04-2024 Heard the parties.

2. This application has been filed for quashing of order dated 18.01.2023 passed by the learned Sub-Divisional Judicial Magistrate, Siwan in connection with G.R. Case No. 3738 of 2021 arising out of Darauli P. S. Case No. 213/2021 whereby and where under cognizance of offences under Sections 341, 323, 498(A), 504/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act was taken against the petitioners.

3. Petitioner No.1 is unmarried sister-in-law and petitioner No.2 is brother-in-law of opposite party No.2.

4. Prosecution case, in short, is that opposite party



no.2 was subjected to torture and harassment by these petitioners and other accused persons due to non-fulfillment of demand of dowry.

5. While denying the allegations, learned counsel for the petitioners submits that the F.I.R. does not disclose any distinct role or contribution of these petitioners in the alleged occurrence and they have been made accused merely on the basis of general and omnibus allegation. Petitioners are separate in mess and property 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 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 F.I.R. 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.

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

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 & Anr. versus State of Jharkhand & Anr.* reported in (2010) 7 SCC 667 and *Kahkashan Kausar alias Sonam & Ors versus State of Bihar & Ors* 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.

9. In view of the foregoing discussions, order dated 18.01.2023 passed by the learned Sub-Divisional Judicial Magistrate, Siwan in connection with G.R. Case No. 3738 of 2021 arising out of Darauli P. S. Case No. 213/2021 with respect to these petitioners, is hereby quashed.

10. This application is, accordingly, allowed.

(Prabhat Kumar Singh, J)

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