

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40302 of 2023

Arising Out of PS. Case No.-284 Year-2019 Thana- PATLIPUTRA District- Patna

-
1. Gauri Shankar Singh Son Of Kedar Prasad Singh Resident Of Village- Birpur Town Ward No. 2, Ps- Birpur, Distt- Supaul
 2. Anu Mala Devi Wife Of Gauri Shankar Singh Resident Of Village- Birpur Town Ward No. 2, Ps- Birpur, Distt- Supaul
 3. Sanjeev Saurav Son Of Gauri Shankar Singh Resident Of Village- Birpur Town Ward No. 2, Ps- Birpur, Distt- Supaul
 4. Rubi Singh @ Ruby Singh Wife Of Sarvesh Singh Resident Of Village- Ekpura, Ps- Gamharia, Distt- Madhepura

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vidhya Singh W/O Rajeev Kumar Singh R/O-Gauri Apartment, Flat No.- 404, Mohalla- Rukanpura, P.S.-rupaspur, District-Patna, At Present-Badri Narayan Bhawan Apartment No.301, Nehru Nagar, P.S.-patliputra, Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Abdul Mannan Khan, Adv. Mr. Hafiz Shahbaz Arif, Adv. Mr. Binay Kumar, Adv.
For the Opposite Party/s	:	Mr. Abhay Kumar Roy, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 01-04-2024 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. This application has been filed for quashing the order dated 29.08.2022 passed in G.R. No. 5738, arising out of Patliputra P.S. Case No. 284 of 2019 by the learned A.C.J.M.-Xth, Patna by which he has taken cognizance under Sections 420, 406, 498(A), 504 and 34 of the I.P.C. against the petitioners.

3. As per the prosecution case, on 25.02.2019 without any information to the informant, co-accused Rajiv Kumar Singh (husband of the informant/O.P. No. 2) under the influence of his family members, left his house with his essential articles including cash and ATM, leaving the informant and her four years old daughter alone. It is further alleged that one day in the absence of the informant, he took her jewellery worth Rs. 5 lakh and transferred Rs. 6 lakh from the joint account of the informant in his account. It is further alleged that husband and his relative including these petitioners, tortured and threatened the informant with dire consequences, if she does not withdraw the case lodged against them by her.

4. It is submitted by the learned counsel for the petitioners that petitioners have falsely been implicated in this case, merely because they happen to be the relative of the husband of the informant/O.P. No. 2. The petitioner no. 1 is father-in-law, petitioner no. 2 is mother-in-law, petitioner no. 3 is *devar* and petitioner no. 4 is married *nanad* of the informant. It is apparent from perusal of the F.I.R. that the specific acquisition is against the husband, so far as these petitioners are concerned, there is general and omnibus allegation and no specific allegation is lodged against them. The contents of the F.I.R. do not disclose any direct involvement of the petitioners

in the aforesaid case. They are separate in property and have no concern with the affairs of the informant as she has cut-off all the relation with her-in-laws. Petitioner nos. 1 and 2 are residing in Birpur, Supaul District, whereas petitioner no. 3 resides at Saharsa in connection with his livelihood and the petitioner no. 4 is married *nanad* permanently resides in her *sasural* at Muzaffarpur at the place of her husband. 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***.

5. On the other hand, learned counsel for the O.P. No. 2 opposed the submissions made on behalf of the petitioners and submits that earlier the complainant had filed a complaint case bearing Complaint Case No. 27957 of 2014 under Section 498(A) of the I.P.C. and 3/4 of the D.P. Act against her husband and in-laws in which cognizance was taken under Section 498(A) of the I.P.C. and 3/4 of the D.P. Act against the petitioner nos. 1, 2 and her husband. It is further submitted that there is sufficient material against the petitioners, hence, the order requires no interference.

6. Considering the fact that there is general and omnibus allegation against these petitioners and perusal of the

F.I.R. goes to show that the entire allegation is against the husband and not against these petitioners and they have been made accused in this case because they happened to be the relative of the husband of the informant. Apparently, the prosecution of the petitioners suffers from oblique motive and amounts to abuse to the process of the Court.

7. 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.

8. Hence, the impugned order dated 29.08.2022 passed in G.R. No. 5738, arising out of Patliputra P.S. Case No. 284 of 2019 by the learned A.C.J.M.- Xth, Patna is hereby quashed only against these petitioners and the application stands allowed.

(Prabhat Kumar Singh, J)

sadique/-

U		T	
---	--	---	--