

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43826 of 2023

Arising Out of PS. Case No.-212 Year-2020 Thana- NAUGACHIA District- Bhagalpur

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1. NUTAN PRIYA W/O UDAY KUMAR R/O VILLAGE- EKCHARI, PS. EKCHARI, DIST. BHAGALPUR
 2. UDAY KUMAR S/O JAGDISH PRASAD YADAV R/O VILLAGE- EKCHARI, PS. EKCHARI, DIST. BHAGALPUR

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR BIHAR
2. MEGHA KUMARI D/O KAILASH YADAV R/O VILLAGE- NAYA TOLA, NAUGACHIYA, WARD NO. 23, PS. NAUGACHIYA, DIST. BHAGALPUR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Swapnil Kumar Singh
For the OP No. 2	:	Mr. Deepak Kumar
For the Opposite Party/s	:	Mr.Shantanu Kumar

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 12-12-2024 Heard learned counsel for the petitioners, learned counsel for the O.P. No. 2 and learned A.P.P. for the State.

2. This application has been filed for quashing the order dated 24.01.2023 passed in Naugachiya P.S. Case No. 212 of 2020, G.R. No. 951 of 2020 arising out of complaint case no. 123 of 2020 passed by learned A.C.J.M.-1, Naugachiya, Bhagalpur whereby and where under the learned Magistrate took cognizance against the petitioners also differing with the opinion with the police report where the final form was submitted against the petitioners after finding no involvement of the petitioners.



3. As per the prosecution case, the petitioners and the co-accused persons are alleged to have tortured the informant mentally and physically due to non-fulfillment of the demand of Scorpio vehicle as dowry and the husband of the informant also threatened to solemnized second marriage.

4. Learned counsel for the petitioners has submitted that the petitioner no. 1 is the married daughter of Nanad of the OP No. 2 and the petitioner no. 2 is the husband of the petitioner no. 1. It is further submitted that there is no specific overt act is attributed against the petitioners rather the allegation against the petitioners is general and omnibus. The petitioners neither demanded any dowry nor assaulted the informant. Learned counsel for the petitioners has relied on the judgment of **Geeta Mehrotra and Anr. Vs. The State of U.P. and Anr. (Cr. App. No. 1674 of 2012)** wherein it was observed that *“if the F.I.R. as it stands does not disclose specific allegation against the accused specially in a matter arising out of matrimonial bickering, it would be clear abuse of the legal and judicial process to mechanically send named accused in the F.I.R. to undergo trial unless the F.I.R., discloses specific allegations which would persuade court to take cognizance of offence alleged against relatives of main accused who are prima facie*



not found to have indulged in physical and mental torture of the complainant- wife- courts are expected to adopt a cautious approach in matters of quashing especially in cases of matrimonial dispute whether F.I.R. in fact discloses commission of an offence by relatives of principal accused or F.I.R. prima facie discloses of a case of over-implication by involving entire family of accused at instance of complainant". Learned counsel for the petitioners has further relied on the judgment of **Hon'ble Supreme Court in K. Subba Rao v. The State of Telangana, (2018) 14 SCC 452** wherein it was also observed that "*The Courts should be careful in proceeding against the distant relatives in crimes pertaining to matrimonial disputes and dowry deaths. The relative of the husband should not be roped in on the basis of omnibus allegations unless specific instances of their involvement in the crime are made out*". Learned counsel has further submitted that the informant's husband is ready to keep the informant with full dignity and honour but the informant is not ready to live with her husband. Learned counsel has further submitted that the petitioners have no concern with the alleged offence. Learned counsel for the petitioners has relied on the judgement of Hon'ble Supreme Court in **Kahkashan Kausar @ Sonam & Ors. Vs. State of Bihar and**



Ors. reported in (2022) 6 SCC 599 wherein it was also observed that “allowing prosecution in the absence of clear allegations against relatives of husband would simply result in an abuse of the process of law- If allegations made against them are general and omnibus, they do not warrant prosecution”.

5. Learned counsel for the opposite party no. 2 and learned A.P.P. for the State have vehemently opposed the quashing application of the petitioners. Learned counsel for the opposite party no. 2 has further submitted that there is specific allegation against the petitioners who are non other than distant relatives of the informant and at this stage, the present prosecution may not be quashed.

6. Given the relevant circumstances and the lack of any specific role attributed to the petitioners, it would be unjust to subject them to the ordeal of trial. General and vague allegations should not compel the relatives of the complainant's husband to face trial. It is to be kept in mind that a criminal trial, even if ending in acquittal, leaves a lasting impact on the accused, and thus, such proceedings should be avoided where it is unwarranted.

7. Considering the aforesaid facts and circumstances of the case, the application for quashing the order of cognizance



with respect to the petitioners dated 24.01.2023 is, hereby,
quashed.

8. The quashing application stands allowed.

(Chandra Prakash Singh, J)

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