

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.43128 of 2023**

Arising Out of PS. Case No.-445 Year-2022 Thana- NAGAR District- Vaishali

1. JEENAT KHATOON @ ZEENAT KHATOON @ ZEENAT PARWIN WIFE OF FAISAL ANSARI RESIDENT OF VILLAGE - BAGMALI PURANI MASJID, P.S. - HAJIPUR TOWN, DISTT. - VAISHALI
2. NEHA KHATOON @ NEHA PARVEEN WIFE OF ARIF ANSARI RESIDENT OF VILLAGE - BAGMALI PURANI MASJID, P.S. - HAJIPUR TOWN, DISTT. - VAISHALI
3. AFNAN KHATOON @ FARHIN AFROZ ANSARI D/O SAMID ANSARI RESIDENT OF VILLAGE - BAGMALI PURANI MASJID, P.S. - HAJIPUR TOWN, DISTT. - VAISHALI
4. MD. FAISAL @ MOHAMMED FAISAL SON OF SAMIR ANSARI RESIDENT OF VILLAGE - BAGMALI PURANI MASJID, P.S. - HAJIPUR TOWN, DISTT. - VAISHALI
5. JISAN KADARI @ ZISHAN QUADRI SON OF ABDUL QUADIR RESIDENT OF VILLAGE - BAGMALI PURANI MASJID, P.S. - HAJIPUR TOWN, DISTT. - VAISHALI
6. MD. ARIF ANSARI @ MD. ARIF SON OF MD. SAMED RESIDENT OF VILLAGE - BAGMALI PURANI MASJID, P.S. - HAJIPUR TOWN, DISTT. - VAISHALI
7. MD. AHSAAN ANSARI @ MD. AHSAN SON OF MD. SAMED RESIDENT OF VILLAGE - BAGMALI PURANI MASJID, P.S. - HAJIPUR TOWN, DISTT. - VAISHALI

... .. PETITIONER/S

VERSUS

1. THE STATE OF BIHAR
2. MAJADA KHATOON WIFE OF MD. SAMID ANSARI RESIDENT OF VILLAGE - BAGMALI PURANI MASJID, P.S. - HAJIPUR TOWN, DISTT. - VAISHALI

... .. OPPOSITE PARTY/S

**Appearance :**

|                          |   |                                  |
|--------------------------|---|----------------------------------|
| For the Petitioner/s     | : | Mr. Mukesh Kumar Singh, Advocate |
| For the Opposite Party/s | : | Mr. Dashrath Mehta, APP          |
| For OP 2                 | : | Aditya Kumar Pandey, Advocate    |
|                          |   | Ranjeet Kumar , Advocate         |

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH**



ORAL ORDER

3      01-04-2024                      This application has been filed for quashing of order dated 02.03.2023 passed by the learned Chief Judicial Magistrate , Vaishali at hajipur in Hajipur Town P . S. Case No. 445 of 2022 whereby Congizance was taken u/s 498(A) , 323 , 504, 506 and 34 of I. P . C . was taken and after issuance of Summon against these petitioners and others was transferred to the court of S.D. J . M., Vaishali at Hajipur.

2. The prosecution case, in brief, is that opposite party No. 2 solemnized marriage with co-accused *Md. Samid Ansari* on September 5, 2014, as per Muslim custom. After marriage, she went to her in-laws and started living a happy married life with her husband but after some time of marriage, her husband started demanding Rs 2 lacs to expand his business, which O.P. No. 2 denied to do so, upon which these petitioners, along with other co-accused persons, started torturing and harassing her in different ways. It is further alleged that when the father of the opposite party No. 2 came to her matrimonial house to pacify the matter, these accused persons showed no interest and continued torturing the opposite party No. 2 for the demand of dowry. It is further alleged that opposite party No. 2 also got apprehension from her husband that if the demand of dowry is not fulfilled, then she will be killed by him.



3. While denying the allegations, learned counsel for the petitioners submits that petitioner No. 1 is daughter of husband of the Opposite Party No. 2, petitioner no. 2 is daughter-in-law husband of the Opposite Party No. 2, petitioner no. 3 is daughter of husband of the Opposite Party No. 2, petitioner no. 4 son-in-law of husband of the Opposite Party No. 2, petitioner no. 5 is in-law of the opposite party No. 2 and petitioner Nos. 6 and 7 is son of the husband of the Opposite party No. 2 from her first wife. It is next submitted that the FIR does not disclose any distinct role or contribution of these petitioners in the alleged occurrence and merely on the basis of general and omnibus allegation they have been made accused in this case . They are separate in mess and property and have no concern with the affairs of couple . 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.

4. 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 FIR 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.

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

6. 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 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.

7. In view of the foregoing discussions, order dated 02.03.2023 passed by the learned Chief Judicial Magistrate ,



Vaishali with respect to these petitioners, is hereby quashed.

8. This application is accordingly allowed.

**(Prabhat Kumar Singh, J)**

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