

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43208 of 2023**

Arising Out of PS. Case No.-1001 Year-2022 Thana- BHOJPUR COMPLAINT CASE
District- Bhojpur

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1. Acchelal @ Achchhe Lal Gupta S/O- Late Dharah Sah
 2. Manju Gupta @ Manju Devi, wife of Acchelal @ Achchhe Lal Gupta
Both are resident of Ward No-21, Yusufpur Bazar Ps- Mohammadabad Dist-
Ghazipur U.P

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sarita Devi wife of Anup Kumar @ Vikky, D/o- Late Birendra Kumar Sahu
Village- Kayam Nagar Ps- Koilwar Dist- Bhojpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Bhaskar Shankar, Advocate
For the Opposite Party/s :	Mr. Shailendra Kumar, APP
	Mr. Gopal Krishna, Advocate

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

4 26-02-2024 Heard learned counsel for the petitioners, learned
APP for the State and O.P. No.2.

2. The present application has been filed for quashing the order dated 03.01.2023 passed by learned Sub-Divisional Judicial Magistrate, Bhojpur at Ara in Complaint Case No.1001 of 2022 whereby and whereunder he has taken cognizance for the offences punishable under Section 498A/34 of the IPC against the petitioners and another.

3. Prosecution case, in brief, is that Complainant Sarita Devi has solemnized her marriage with Anop Kumar alias Vikky according to Hindu law on 08.02.2018 and went to her



matrimonial house. In the marriage, complainant's father gifted cash apart from gold ornaments and utensils etc., but the accused persons tortured the complainant mentally and physically and demanded 10 lakh rupees and also threatened to oust her from the house. In the meantime, the complainant gave birth to a female child in her *Maika* and when she again came to her *Sasural*, all the accused persons demanded dowry and threatened that if the demand is not met, they would perform second marriage of her husband. Lastly, the accused persons ousted the complainant from her *Sasural*.

4. Learned counsel for the petitioners submits that the petitioner no.1 is father-in-law and petitioner no.2 is mother-in-law of the complainant/O.P. No.2. Learned counsel for the petitioners next submits that there is general and omnibus allegation of demand of dowry and committing torture against the petitioners and no distinct and specific overt act has been alleged against them. Learned counsel for the petitioners further submits that the complaint does not disclose any direct involvement of these petitioners in the alleged occurrence. They are separate in mess and property and have got no concern with the alleged occurrence. It is only in the backdrop of acrimony and bitterness in the matrimonial life of the couple, the



complainant has roped the relatives of the husband due to anger generated against her husband.

5. Learned A.P.P. for the State along with learned counsel for the complainant/O.P. No.2 vehemently opposed the prayer for quashing application of the petitioners and submitted that there is sufficient material against the petitioners in the complaint and they are the kingpin and instrumental in commission of torture and harassment to complainant and finally, because of their involvement she was ousted from the matrimonial house.

6. Upon perusal of the contents of complaint, it is revealed that general allegations are levelled against these petitioners. No specific and distinct allegations have been made against either of the petitioner. In absence of clear and specific allegations against these petitioners, allowing prosecution would simply result in an abuse of the process of law.

7. Considering the facts and circumstances of the case as well as law laid down by the Hon'ble Apex court in case of **Preeti Gupta & Anr vs State of Jharkhand & Anr** reported in **(2010) 7 SCC 667** and in the case of **Kahkashan Kausar @ Sonam & Ors.** reported in **(2022) Live Law (SC) 141**, impugned order of cognizance dated 03.01.2023 passed by



learned Sub-Divisional Judicial Magistrate, Bhojpur at Ara in
Complaint Case No.1001 of 2022 is hereby quashed in respect
of these petitioners only.

8. Present quashing application stands allowed.

(Prabhat Kumar Singh, J)

Prakash Narayan

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