

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45817 of 2023

Arising Out of PS. Case No.-1 Year-2020 Thana- MAHILA THANA District- Begusarai

1. Mira Devi Wife Of Suresh Chandra Shah Resident Of Village - Hemanpur, P.S. - Bakhri, Distt. - Begusarai
2. Balmukund Kumar @ Kundan Kumar Son Of Suresh Chandra Shah Resident Of Village - Hemanpur, P.S. - Bakhri, Distt. - Begusarai
3. Gyatri Devi Wife Of Balmukund Kumar @ Kundan Kumar Resident Of Village - Hemanpur, P.S. - Bakhri, Distt. - Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Puja Kumari D/o Late Anand Krishore Prasad Resident of village - Babbhangama, P.S. - Muffasil, Munger, Distt. - Munger. Presently residing at Malabaghi, P.S. - Baghi, Distt. - Begusarai

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar, Advocate
For the Opposite Party/s : Mr. Surendra Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV JUDGMENT

Date : 10-07-2024

1. Heard learned counsel for the petitioners, learned APP for the State and learned counsel for the opposite party no. 2.

2. The petitioners have filed the instant application praying for quashing the order dated 28.11.2022 passed in Mahila P.S. Case no. 1 of 2020 by the learned Sub-Divisional Magistrate, Begusarai whereby the learned trial Court was pleased to take cognizance under sections 498A and 34 of the Indian Penal Code and sections 3 and 4 of the Dowry



Prohibition Act.

3. The prosecution case as per the written statement of the opposite party no. 2 addressed to the Officer In-Charge of Mahila Police Station, Begusarai made on 15.1.2020 is to the effect that the opposite party no. 2 who is working as a teacher was married to one Santosh Kumar in the year 2010. At the time of marriage her parents gave Rs. 5,00,000/- in cash, ornaments worth Rs. 5,00,000/- and furniture by way of gift. A child was born in October, 2012. Her husband got employed as a Junior Engineer in Guwahati, however, soon thereafter his behaviour towards the opposite party no. 2 changed for the worse. He started to abuse and assault the opposite party no. 2 and started making demand of a car by way of dowry from her parents. It is for this that the petitioners herein who happen to be the mother-in-law, *bhaisur* (husband's elder brother) and *gotni* (wife of husband's elder brother) along with others started to physically and mentally torture the opposite party no. 2. She was abused and assaulted and her husband stopped talking to her. Though a Panchayat was held, they were not ready to abide by its decision. On one of the dates of occurrence, the three petitioners herein along with her husband also came to school where she was posted in the capacity of a teacher and assaulted her in



presence of other teachers who protested to the said occurrence.

As such it was prayed that the F.I.R be registered.

4. On the basis of the above written statement of the opposite party no. 2, the F.I.R of Mahila P.S. Case no. 1 of 2020 was registered on 15.1.2020 under sections 498A, 323, 341, 504 and 34 of the Indian Penal Code and sections 3 and 4 of the Dowry Prohibition Act.

5. The investigation was taken up and charge-sheet no. 22 of 2020 was submitted on 7.8.2020 under sections 498A and 34 of the Indian Penal Code and sections 3 and 4 of the Dowry Prohibition Act. By order dated 28.11.2022 the learned trial Court was pleased to take cognizance in the case, against which the instant application has been preferred.

6. It is submitted by learned counsel for the petitioners that the petitioners have been falsely implicated in the case. They happen to be the mother-in-law, the *bhaisur* (husband's elder brother) and the *gotni* (wife of husband's elder brother) of the opposite party no. 2. They have no concern with the day to day affairs of the opposite party no. 2 and her husband. The petitioner nos. 2 and 3 are completely separate in mess and residence from the opposite party no. 2. The petitioner no. 1 who happens to be mother-in-law of the opposite party no.



2 is an old ailing lady. The dispute, if any, is between the opposite party no. 2 and her husband as they reside separately from the petitioners. The criminal case has been lodged as a result of personal grudge on false and frivolous allegations. The continuance of the proceedings will be an abuse of process of the Court. As such it is prayed that the order impugned taking cognizance be quashed. Learned counsel for the petitioners in support of his submissions has placed reliance on the judgment of the Hon'ble Supreme Court in the case of K. Krishna Murthy (Dr.) & Others vs. Union of India & Anr. [(2010) 7 SCC 202], Kahkashan Kaushar & Sonam vs. State of Bihar & Others [(2022) 6 SCC 599] and K. Subba Rao & Others vs. State of Telangana & Others [(2018) 14 SCC 452]. Learned counsel has further placed reliance on an order dated 4.3.2024 passed in Cr. Misc. no. 3547 of 2023 (Rajni Devi & Others vs. State of Bihar & Anr.) by a co-ordinate Bench of this Court wherein the case of the petitioners therein was quashed placing reliance on the judgments in the case of Preeti Gupta & Anr. vs. State of Jharkhand & Anr. [(2010) 7 SCC 667] and Kahkashan Kaushar (supra) on the ground that no specific role was attributed to the petitioners.

7. The application is opposed by learned APP for



the State and learned counsel for the opposite party no. 2. It is submitted by learned counsel for the opposite party no. 2 that not only the petitioners are named in the F.I.R but there is direct allegation against them. By no stretch of imagination can they be said to be distant relatives of the husband of the informant as the petitioners happen to be the mother-in-law, the elder brother of the informant's husband and the wife of the elder brother of the informant's husband. It is submitted that the witnesses whose statements were recorded in course of investigation including the further statement of the informant as also the statements of Rajesh Kumar and Deepak Kumar, they have supported the prosecution case against the petitioners. There is no illegality in the order impugned and as such the application be dismissed.

8. Having heard learned counsel for the parties and having perused the material on record, this Court finds that the petitioners who happen to be the mother-in-law, husband's elder brother and his wife of the opposite party no. 2 are not only named in the F.I.R, but there is direct allegation against them of abuse, assault as also having inflicted physical and mental torture on the opposite party no. 2 and which has been supported by the witnesses whose statements have been recorded in course



of investigation. The judgments relied on by the petitioners as referred to here-in-above do not have any applicability in the facts and circumstances of the instant case.

9. Thus in view of the facts and circumstances of the case, this Court finds no merit in the instant application and the same is dismissed.

10. Liberty is granted to the petitioners to raise the points raised herein at an appropriate stage in the learned trial Court.

(Partha Sarthy, J)

Harsh/-

AFR/NAFR	NAFR
CAV DATE	15.5.2024
Uploading Date	10.7.2024
Transmission Date	10.7.2024

