

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48279 of 2023

Arising Out of PS. Case No.-160 Year-2015 Thana- MAHILA P.S. District- Bhojpur

1. MD. NISAR Son of Late Faiyaj Ahmed @ Late Ghisi Yadavan Resident of village - Kajipuri Khurd, P.S. - Sibra Chauk, Distt. - Varanasi (U.P.)
2. Rina Bano D/o Late Md. Jamaluddin, W/o Imtiyaz Ahmed Resident of village - Gariyan, Mohalla - Ramaipatti, P.s. - Mahurai, Distt. - Mirjapur (U.P.)
3. Kalamuddin Son of Late Md. Jamaluddin Resident of village - Kajipuri Khurd, P.S. - sigra Chauk, Distt. - Varansi (U.P.)
4. Jiyauddin Son of Late Md. Jamaluddin Resident of village - Kajipuri Khurd, P.S. - sigra Chauk, Distt. - Varansi (U.P.)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sabina Khatoon Wife of Md. Ramjanuddin R/o vill - Ketari, Muhalla (Near to Jail Talab), P.S. - Sibra Chauk, Distt. - Varansi (U.P.)

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan, Advocate
For the Opposite Party/s : Mr. Umeshanand Pandit, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 15-04-2024 Heard learned counsel for the petitioners, learned A.P.P.

for the State and learned counsel for the informant/Opposite Party

No. 2.

2. This application has been filed under Section 482 of the Code of Criminal Procedure, 1973, on behalf of the petitioners for quashing the order dated 22.05.2023 passed by the learned Sessions Judge, Bhojpur, Ara in Cr. Revision No. 30 of 2023 whereby and whereunder the learned Court below has been pleased to dismiss the aforesaid Cr. Revision filed by the petitioners and confirmed the order dated 23.12.2017 arising out of Mahila P.S. Case No. 160 of 2015 for the offences punishable under Section



323, 498(A), 379, 34 of the Indian Penal Code thereby petition filed under Section 239 Cr.P.C. to discharge the petitioners from the aforesaid case has been dismissed.

3. The prosecution story in brief is that the complainant /Opposite Party No. 2 was married with co-accused, Ramzanuddin in the year 2009. At the time of marriage, petitioners gifted cash of Rs. 80,000/- and ornamental according to their capacity but after marriage when she came at her matrimonial house where all accused persons who happen to be her husband, two brother of her husband one sister of her husband and maternal uncle use to demanding one lakh rupees cash and for that she was being tortured. Lastly, it is alleged that they finally snatched her belonging, ornament and ousted from her matrimonial house.

4. Learned counsel appearing on behalf of the petitioners submits that both the impugned orders dt. 23.12.17 nd 22.05.23 have been passed mechanically without considering the materials properly. Petitioner No.1 is material uncle of Opposite Party No.2 and is practicing Advocate in the district Court of Varanasi. Petitioner No.2 is marriade sister and petitioner No.3 and 4 are the brothers of husband of Opposite Party No.2. They have been made accused in this case merely because they happen to be relative of the husband of Opposite party No.2. They have got no concern



with the affairs of the couple. They are separate in mess and property. Whenever any dispute arises between the husband and wife, all the family members are falsely implicated in a mechanical manner. In absence of specific and clear allegation, 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.**

5. On the other hand, learned A.P.P. for the State and learned counsel appearing on behalf of the informant/Opposite Party No. 2 have vehemently opposed the arguments advanced on behalf of the petitioners. There is sufficient material on record against the petitioners 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.

6. Having heard the submissions advanced by learned counsels appearing on behalf of the parties and perusing the materials available on record including the complaint petition, I am satisfied that the criminal proceeding initiated by opposite party No.2 against these petitioners are wholly unwarranted. The complaint is an abuse of the process of Court. Neither time nor



place where the incident happened with the informant has been mentioned by her as to where she was subjected to cruelty and harassment in regard to demand of dowry.

7. 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 (supra)** 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.

8. In view of the foregoing discussions, the order dated 22.05.2023 passed by the learned Sessions Judge, Bhojpur, Ara in Cr. Revision No. 30 of 2023 and order dated 23.12.2017 passed by the S.D.J.M., Bhojpur at Ara with respect to these petitioners, in connection with Mahila P.S. Case No. 160 of 2015 are hereby quashed.

9. Accordingly, the present quashing application is allowed.

(Prabhat Kumar Singh, J)

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