

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47271 of 2023

Arising Out of PS. Case No.-721 Year-2022 Thana- JAKKANPUR District- Patna

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1. Rita Singh Wife Of Kamdlesh Prasad Singh Resident Of Mohalla- New Purandarpur Near Jakkanpur Thana Road, Police Station- Jakkanpur, District Patna And At Present Residing At Village New Chitragupt Nagar, P.S.- Kankarbagh, District-Patna
 2. Ashutosh Singh @ Ashutosh Priye Singh Son Of Kamlesh Prasad Singh Resident Of Mohalla- New Purandarpur Near Jakkanpur Thana Road, Police Station- Jakkanpur, District Patna And At Present Residing At Village New Chitragupt Nagar, P.S.- Kankarbagh, District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dr. Someshwar Singh Son Of Late Aaskrit Singh Resident Of Mohalla- New Purandarpur Near Jakkanpur Thana Road, Police Station- Jakkanpur, District- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan, Advocate
For the State	:	Md. Shakir Ahmad, A.P.P.
For the O. P. No. 2	:	None

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 22-04-2024 Despite valid service of notice and several adjournments, nobody appears on behalf of the opposite party No. 2.

2. Heard learned counsel for the petitioners and learned A.P.P. for the State.

3. This application has been filed for quashing of F.I.R. registered as Jakkanpur P. S. Case No. 721 of 2022 for the offences punishable under Sections 147, 148, 149, 341, 323, 504, 506, 379, 380, 452, 384, 386 of the Indian Penal Code and



Section 27 of the Arms Act.

4. As per the F.I.R., opposite party No. 2 is a retired scientist and lives in his house with his caretaker. He had two sons, one of whom died in a road accident in the year 2002 and his elder son lives separately along with his wife and children. It is stated that a Partition Suit No. 8/2003 was disposed of in the year 2004 on the basis of joint compromise petition between the parties and 1/4th part of share was given to these petitioners. It is alleged that on 15.10.2022, the F.I.R. named accused persons along with three unknown persons entered into the house of the opposite party No. 2 and abused and assaulted him. It is further alleged that the accused persons forcefully took signature of the opposite party No. 2 on 5-7 blank stamp papers and snatched jewellery worth Rs. 50,000/- and Rs. 20,000/- and they also demanded Rs. 50 lacs as ransom.

5. Learned counsel for the petitioners submits that petitioners have falsely been implicated in this case only with a view to put pressure upon them to vacate the joint house. Petitioner No. 1 is own daughter-in-law and petitioner No. 2 is grandson of the opposite party No. 2 and they all are living in the same house as joint family since 1984. Opposite party No. 2 has deliberately suppressed this fact in the F.I.R. He next



submits that the opposite party No. 2, who is father-in-law of the petitioner No. 1, in connivance with the husband of petitioner No. 1 has lodged this false and concocted case in order to oust these petitioners from the house. The truth of the matter is that petitioner No. 1 is a victim of domestic violence due to non-fulfillment of demand of dowry made by the opposite party No. 2 and her husband. In the year 2004, petitioner No. 1 came to know that her husband has solemnized second marriage and started torturing her along with his second wife and opposite party No. 2. They pressurized the petitioner No. 1 to leave the house but she did not leave because she had nowhere else to go. Earlier also the petitioner No. 1 has lodged Mahila P. S. Case No. 32 of 2023 registered under Sections 498A, 494, 341, 323 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act and Jakkanpur P. S. Case No. 355 of 2023 under Sections 341, 323/34 of the Indian Penal Code against the accused persons including the opposite party No. 2 for different incidences of abuse and harassment. It is further submitted that allegation against the petitioners is general and omnibus and there is no specific allegation against them. Opposite party No. 2 and husband of the petitioner No. 1 fraudulently obtained a collusive decree in a partition suit on the basis of their mutual



compromise only to oust the petitioners from their ancestral property and now they are trying to use the same to pressurize the petitioners to give up their legal right to reside in the matrimonial house. He lastly submits that the allegations in the F.I.R. are absolutely absurd and improbable and on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding. In this connection he relies upon the law laid down by the Hon'ble Supreme Court in the case of *State of Haryana & Ors v. Ch. Bhajan Lal & Ors* reported in 1992 Supp (1) SCC 335.

6. Having heard the submissions advanced by learned counsel for the petitioner and on perusing the materials available on record, and the F.I.R., it is apparent that there is purely a matrimonial dispute between the parties. Petitioners are none other than own daughter-in-law and grandson of the opposite party No. 2 and both of them are living in joint family property and it appears that only with a view to put pressure upon the petitioners to leave the matrimonial home and give up her legal right to reside in the matrimonial house, this false and concocted case has been lodged against the petitioners. No specific date, time and place has been given as to when opposite party No. 2 was threatened by these petitioners.



7. Considering the backdrop and facts and circumstances of the case and the law laid down by the Hon'ble Supreme Court in the case of *State of Haryana & Ors v. Ch. Bhajan Lal & Ors (supra)*, continuation of proceeding against the petitioners would amount to abuse of the process of court.

8. In view of the foregoing discussions, F.I.R. registered as Jakkanpur P. S. Case No. 721 of 2022 for the offences punishable under Sections 147, 148, 149, 341, 323, 504, 506, 379, 380, 452, 384, 386 of the Indian Penal Code and Section 27 of the Arms Act, is hereby quashed with respect to these petitioners only.

9. This application is, accordingly, allowed.

(Prabhat Kumar Singh, J)

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