

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14680 of 2016

Arising Out of PS. Case No.-60 Year-2015 Thana- BEGUSARAI TOWN District- Begusarai

1. Ila Devi Wife of Banti Singh
 2. Dolly Devi Wife of Uttam Kumar
 3. Anu Devi Wife of Niraj Kumar
 4. Surajmani Devi Wife of Dinesh Prasad Sharma
 5. Dinesh Prasad Sharma Son of Late Rajnandan Singh
- All are resident of village - Uttar Serthu, Police Station Kako Pali, District - Jehanabad

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sweta Singh Daughter of Umesh Singh, Resident of Mohalla - Mugariganj, Heera Lal Chowk, Police Station- Nagar, District - Begusarai

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Girish Chandra Jha, Advocate Mr. Ashish, Advocate
For the State	:	Mr. Upendra Kumar, APP
For the O.P. No. 2	:	Mr. Ajay Kumar Thakur, Advocate Mr. Pravin Kumar, Advocate Ms. Nazia Shabah, Advocate Ms. Kajal Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 27-06-2024

The present petition has been filed under Section 482 Cr.PC for quashing and setting aside the impugned order dated 17.12.2015/04.01.2016 passed by Ld. Chief Judicial Magistrate, Begusarai in connection with Nagar P.S. Case No. 60 of 2015 whereby Ld. Chief Judicial Magistrate, Begusarai has taken cognizance of offence punishable under Sections 498A and 420 read with Section 34 of the Indian Penal Code and Section 3/4 of



Dowry Prohibition Act against the petitioners.

2. The prosecution case, as emerging from the written report of the informant Shweta Singh, is that she was married with co-accused Anjani Kumar on 28.02.2011 as per Hindu Rites and Customs. As per the allegation, even the marriage was solemnized by the co-accused Anjani Kumar with the informant with cheating and even after the marriage, she was subjected to mental and physical torturing by her husband. After the marriage, she started living with her husband at Patna where she was subjected to mental and physical exploitation by her husband and after five days staying at Patna, her husband went to Mumbai. But on telephone, the husband used to ask her to demand for flat from her parents. As per further allegation, even parents and sister of the husband used to abuse the informant and demand dowry. Thereafter, one flat was purchased by her parents for Rs.15,00,000/- in January, 2011 at Mumbai in joint name of the husband (co-accused) and the informant. Even after giving additional dowry of Rs.5,00,000/- by her parents, she was also taunted for insufficient dowry by the Accused persons. After staying for one month at her *sasural*, she was taken back by her husband to Mumbai to live in a rented house. Her husband used to demand four wheeler vehicle and a flat. She got



pregnant, but even during pregnancy, she was harassed by her husband and mother-in-law. She also took up a job in a private company. However, on 27.11.2011, she came to Begusarai from Mumbai and gave birth to a baby boy. Even thereafter, demand for vehicle persisted. She was harassed on account of non-fulfillment of the same. She was again taken back by her husband in Mumbai on 23rd of May, 2012 and started living in the flat purchased by her parents. On non-fulfillment of the said demand, she was harassed by her husband and other Accused persons. It is also alleged that during the pregnancy, the accused persons were forcing her to terminate her pregnancy.

3. Heard Ld. counsel for the petitioners, Ld. APP for the State and Ld. counsel for the Informant.

4. Ld. counsel for the petitioners submits that petitioners are innocent and have falsely been implicated. He further submits that all the petitioners are other than husband and on account of non-working of the marriage between the informant and her husband (co-accused Anjani Kumar), they have been falsely roped in by the informant. Even as per the allegation made in the written report, the main allegation is against the husband and they have been roped in only for harassing the whole family. Moreover, there is no specific



allegation against them with reference to the date and place and nature of the cruelty. Ld. Chief Judicial Magistrate has taken cognizance against the petitioners only mechanically without applying judicial mind and without finding any substantive material against them.

5. However Ld. A.P.P. for the State and Ld. counsel for the O.P. No.2 vehemently defend the impugned order and submit that there is sufficient material on record to issue summons against the petitioners also. Ld. counsel for the O.P. No.2 also submits that the informant and her son, born out of the wedlock, are not being maintained by her husband, and, hence, she is living at her parental home along with her son.

6. I perused the material on record and gave thoughtful consideration to the submissions advanced by both the parties.

7. From perusal of the written report and the material on record, I do not find any specific allegation against the Petitioners with date and place of the commission of the alleged offence. The Petitioners seem to have been roped in by the informant on account of non-working of the marriage with her husband with intent to harass the whole family. It has been consistently held by Hon'ble Supreme Court that tendency has



developed to falsely implicate relatives of the husband in matrimonial dispute by way of general and omnibus allegation and if, such tendency is left unchecked, it could result in misuse of the process of the law. (refer to **Kahkashan Kausar @ Sonam & Ors. Vs. State of Bihar & Ors. (2022) 6 SCC 599**).

8. In Pepsi Foods Limited & Anr. v. Special Judicial Magistrate & Ors., [(1998) 5 SCC 749], Hon'ble Supreme Court has held that summoning of an accused in a criminal case is a serious matter and criminal law cannot be set into motion as a matter of course.

9. In the celebrated judgment of State of Haryana vs Bhajan Lal [1992 Suppl (1) SCC 335], Hon'ble Supreme Court has held, amongst other things, where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge, the inherent power under Section 482 Cr.PC may be invoked by the Court to prevent the abuse of the process of Court and secure the ends of justice.

10. Hence, the impugned order is not sustainable in the eye of law. It is liable to be quashed and set aside under Section 482 Cr.PC.

11. Accordingly, the petition is allowed quashing and



setting aside the impugned order dated 17.12.2015/04.01.2016
passed by Ld. Chief Judicial Magistrate, Begusarai in
connection with Nagar P.S. Case No. 60 of 2015.

(Jitendra Kumar, J.)

ravishankar/shoaib

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	12.08.2024
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