

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50973 of 2023

Arising Out of PS. Case No.-916 Year-2021 Thana- PATNA COMPLAINT CASE District-
Patna

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1. SHAKUNTALA DEVI WIFE OF LATE OM PRAKASH CHAUDHARY
RESIDENT OF MOHALLA- GUDAR PANDEY LANE (PATUA TOLI),
BUNIYADGANJ LANE, PS- BUNIYADGANJ (MANPUR), DIST- GAYA
 2. RAJESH KUMAR @ RAJESH KUMAR CHAUDHARY SON OF LATE
BHAGWAN DAS RESIDENT OF MOHALLA- MITHAPUR B- AREA,
MOTI PAN LANE, PS- JAKKANPUR, DIST- PATNA
 3. SUDHANSHU PRAKASH @ SHIVAM SON OF ASHOK CHAUDHARY
RESIDENT OF MOHALLA- GUDAR PANDEY LANE (PATUA TOLI),
BUNIYADGANJ LANE, PS- BUNIYADGANJ (MANPUR), DIST- GAYA

... .. Petitioner/s

Versus

1. The State of Bihar
2. OM PRAKASH CHAUDHARY SON OF LATE HAZARI CHAUDHARY
RESIDENT OF MOHALLA- KUMHRAR, SOUTH OF 1ST PILAR, PS-
AGAMKUAN, DIST- PATNA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajit Ranjan Kumar , Advocate
For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 15-04-2024 This application has been filed for quashing of order
dated 23.11.2022 passed by learned Judicial Magistrate , 1st
Class, Patna City by which the learned magistrate has been
pleased to take cognizance for the offences under sections 323 ,
354, 498(A) of the Indian Penal Code and under sections 3/4 of
the Dowry Prohibition Act against these petitioners.

2. The prosecution case, in brief, is that the daughter
of the complainant married with the co-accused, *Prushotam*



Prakash, on May 9, 2005. After the marriage, all the accused persons, including these petitioners, started demanding dowry, and on expressing their inability to bring dowry, the daughter of the complainant was subjected to torture and harassment.

3. While denying the allegations, learned counsel for the petitioners submits that petitioner No. 1 is the mother-in-law of the victim, who is a retired teacher from a government school; petitioner No. 2 is *Nandoi*, who is an accounts officer in the railway and posted in *Hajipur*; and petitioner No. 3 is the Nephew (Bhagina), who is pursuing his study at IIM, Bangalore. It is next submitted that these petitioners have falsely been implicated in this case merely on the basis of general and omnibus allegations. The daughter of the complainant used to live with her husband in Patna. As a matter of fact, during her stay in Patna, she developed friendship with one *Anil Kumar*, and she left the house of her husband with *Anil Kumar* on December 22, 2020, along with her two children, after taking ornament and cash, for which co-accused *Prushotam Prakash* filed a complaint Case No. 02 of 2021 in the Court of the learned Chief Judicial Magistrate, Gaya, against *Anil Kumar* and his wife *Pushpanjali Kumari*. After inquiry, the learned Court below has been pleased to take cognizance under sections 362



and 365 of the Indian Penal Code against *Anil Kumar*. After some time, the daughter of the complainant returned to the house of the petitioner No. 1 on April 11, 2023, and is presently residing with the petitioner No. 1 at her house in Gaya. As such, the complaint does not disclose any distinct role or contribution of these petitioners in the alleged occurrence . 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.***

4. On the other hand, learned A.P.P. for the State and learned counsel appearing on behalf of the opposite party no. 2 have opposed the arguments advanced on behalf of the petitioners and submits that they were instrumental in torturing the daughter of opposite Party No. 2, both mentally and physically. There is sufficient material on record against them 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.

5. Having heard the submissions advanced by learned



counsel appearing on behalf of the parties and on perusing the materials available on record, and the complaint, it appears that only omnibus allegations have been made by opposite party no.2 against these petitioners.

6. 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 & Anr. Versus State of Jharkhand & Anr.* reported in *(2010) 7 SCC 667* 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.

7. In view of the foregoing discussions, order dated 23.11.2022 passed by learned Judicial Magistrate , 1st Class, Patna City , with respect to these petitioners, is hereby quashed.

8. This application is accordingly allowed.

(Prabhat Kumar Singh, J)

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