

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53334 of 2024

Arising Out of PS. Case No.-124 Year-2023 Thana- JANTA BAZAR District- Saran

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1. Dinesh Prasad @ Dinesh Kushwaha, son of Nand Kishore Prasad.
 2. Preeti Kumari @ Priti, wife of Dinesh Prasad @ Dinesh Kushwaha.
Both resident of - Lahladpur, P.O.- Panditpur, P.S.- Janta Bazar,
District- Saran, Bihar-841226.

... .. Petitioners

Versus

1. The State of Bihar
2. Gudiya Kumari, wife of Rajendra Prasad, resident of Dandaspur, P.S.- Janta Bazar, District- Saran

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Shahid Jawed, Advocate
For the State	:	Mr. Pawan Kumar Chaurasia, APP
For the O.P. No.2	:	Mr. Braj Kishore Singh, Advocate Mr. Ramchandra Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 13-08-2024

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

2. This application has been filed for quashing
the order dated 30.05.2024 passed by the learned Judicial
Magistrate, 1st Class, Chapra, in Janta Bazar P.S. Case No.124 of
2023, by which the learned Magistrate has taken cognizance
against the accused persons including these petitioners for the
offence under sections 341, 323, 325, 498-A, 504 and 506/34 of
the Indian Penal Code and under section 3/4 of the Dowry



Prohibition Act.

3. As per the F.I.R., the informant was married to Rajendra Prasad in the year 2021. At the time of marriage, the father of the informant had given household articles worth Rs.40,00,000/-, jewellery worth Rs.20,00,000/-, Rs.14,00,000/- cash and one bullet motorcycle worth Rs.3,00,000/- to her in-laws. After the marriage, her in-laws started demanding dowry and on account of non-fulfillment of said demand, the informant was tortured by the accused persons. It has also been alleged that the husband of the informant has illicit relationship with his *bhabhi*. On 12.07.2023 at about 8:00 A.M. when the informant was in her room, the petitioner no.1 and one Manish Prasad entered in her room and pulled her *saree*, as a result of which, the informant became naked and thereafter, the petitioner tried to establish physical relation with her. When the informant protested, she was beaten by the petitioner and said Manish Prasad. It has also been alleged that on the same day at about 9:00 A.M. her husband and *bhabhi* were in a compromising position and when the informant objected the same, all the accused persons beaten her and accused Preeti Kushwaha sprinkled petrol over her. When the informant started screaming, the local people came and saved her. It has also been alleged



that accused persons have snatched the mobile phone, neckless, ear-rings etc. from the informant. The accused Rajesh Prasad threatened the informant to implicate her and her family members under the Harijan Act and petitioner no.1 also said that he has made her video secretly and if she does not cooperate with him, he will make her video viral.

3.1. The Police, after investigation, has submitted the charge sheet under sections 341, 323, 325, 498-A, 504 and 506/34 of the Indian Penal Code and under section 3/4 of Dowry Prohibition Act against eleven accused persons including these petitioners. The learned Judicial Magistrate, 1st Class, Chapra by an order dated 31.05.2024 has taken cognizance of the offences under sections 341, 323, 325, 498-A, 504 and 506/34 I.P.C and Section 3/4 of Dowry Prohibition Act against the accused persons including these petitioners.

4. Learned counsel for the petitioners submits that the the petitioners are innocent and have falsely been implicated in the present case due to enmity, grudge and local politics. He further submits that on perusal of the F.I.R, it appears that the informant has made series of allegations against all the accused persons but there is no specific allegation against these petitioners.



5. Learned counsel for the petitioners further submits that the petitioners are neither the family members of the informant nor her husband and as such, no case under section 498-A of the Indian Penal Code or section 3/4 of the Dowry Prohibition Act is made out against the petitioners. He further submits that the informant, presently posted in Bihar Women Police Constable having Batch no. 1085, is misusing her power to harass and falsely implicate the petitioners for her personal grudge.

6. Learned counsel for the petitioners also submits that the petitioner no.1 is a political person and has contested the election of Zila Parishad and since he being the active political member of the village used to criticize the outrageous behaviour of informant, the informant always had a personal grudge with him for which she used to make false allegations against him and his family members. Therefore, the petitioner no. 1 filed an informatory petition bearing no.2756 of 2023 before the learned Chief Judicial Magistrate, Chapra at Saran.

7. It has been argued by learned counsel for the petitioners that the husband of the informant, who is also one of the accused in the present case, has already filed a Divorce



Petition bearing Divorce Case No. 199 of 2023 in the Court of Principal Judge, Family Court ,Saran at Chapra on the ground of Adultery of his wife with one Rajesh Kumar, son of Ravindar Singh, who is posted as Sub Inspector in Bihar Police. It has also been argued that while passing the impugned order, the learned Magistrate has failed to appreciate the fact that the petitioners are neither the family members of the informant nor her husband and they have nothing to do with day-to-day affairs of the informant and her in-laws.

8. It has further been argued that the petitioners are not directly related with the informant and the case is primarily under section 498-A of the Indian Penal Code but cognizance has been taken under various other sections of the Indian Penal Code. It has also been argued that the petitioner no.1 has been recommended for appointment on the post of Assistant Professor (Psychology) in B.R.A. Bihar University, Muzaffarpur and before his appointment on the said post, he was required to submit his Character Certificate along with other relevant documents and he applied for the same but the Superintendent of Police, Saran has dismissed his application on the ground of pendency of this case. The petitioner no.1 would suffer irreplaceable loss if his appointment gets rejected because



of the pendency of the present case.

9. Learned counsel for the opposite party no.2 (informant) has opposed this application and has submitted that there are serious allegations levelled against the petitioners and therefore, the prosecution of the petitioners may not be quashed.

10. I have considered the submissions of the parties and perused the materials on record.

11. The Hon'ble Supreme Court in the cases of *Preeti Gupta vs. State of Jharkhand* reported as (2010) 7 SCC 667; *Kahkashan Kausar vs. State of Bihar* reported as (2022) 6 SCC 599 and *Achin Gupta vs. State of Haryana* reported as 2024 SCC OnLine SC 759 has deprecated the practice of falsely implicating the persons who are junior members, distant relatives and outsiders of the family of the husband of the complainant/informant. The present case is such a case where the petitioners are not closely related to the family of the husband of the opposite party no.2 (informant). From reading of the F.I.R. and the other materials available on record, it appears that the present F.I.R. has maliciously been instituted with an ulterior motive for wreaking vengeance on the petitioners due to private and personal grudge. Moreover, it appears that in the present case the informant has made all the family members of



her husband including the petitioners who are not the close relative of the husband of the informant as accused with an ulterior motive to spite them due to private and personal grudge. This tendency of making all the family members of the husband of the complainant/informant has been deprecated by the Hon'ble Supreme Court in a number of judgments.

12. The Hon'ble Supreme Court in the case of ***Mahmood Ali and Ors. vs. State of U.P.*** reported as ***2023 SCC OnLine SC 959*** while considering an application in which the quashment of the criminal proceeding was sought on the ground of frivolous and vexatious proceedings instituted with an ulterior motive for wreaking vengeance, has held that the Court has a duty to examine the F.I.R./Complaint as the complainant/informant may draft the F.I.R./complaint meticulously ensuring that it include all necessary details and elements of the alleged offence. It is not sufficient for the Court to solely rely on the averments of the F.I.R./complaint to determine the essential ingredients of the offence.

13. It will be relevant to quote paragraph no.13 of the aforesaid decision, which reads as under:-

“13. At this stage, we would like to observe something important. Whenever an accused comes before the



Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious



proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/ registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

14. Considering the law laid down by the Hon’ble Supreme Court in the aforesaid cases and also considering the facts that petitioners are not close relative of the family of the husband of the informant and the present F.I.R. has maliciously been instituted with an ulterior motive for wreaking



vengeance on the petitioners due to private and personal grudge,
I am of the opinion that the continuation of proceeding against
the petitioners would be an abuse of process of the Court.

15. In view of the aforesaid, this application is
allowed. Accordingly, the F.I.R. vide Janta Bazar P.S. Case
No.124 of 2023 and all consequential proceedings arising out of
the aforesaid F.I.R. including the order dated 30.05.2024 passed
by the learned Magistrate are hereby quashed with respect to
present petitioners only.

(Sandeep Kumar, J)

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AFR/NAFR	N.A.F.R
CAV DATE	N/A
Uploading Date	15.08.2024
Transmission Date	15.08.2024

