

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55126 of 2023

Arising Out of PS. Case No.-783 Year-2019 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Nandan Yadav @ Nandan Prasad Yadav S/O Late Lal Mohan Yadav @ Late Chhotelal Yadav R/O Village- Nayagaavn (BADDIPARA), P.S- East Colony, P.O- Jamalpur, Distt.- Munger.
 2. Phulo Devi @ Smt. Phulo @ Fulo Devi W/O Nandan Prasad Yadav R/O Village- Nayagaavn (BADDIPARA), P.S- East Colony, P.O- Jamalpur, Distt.- Munger.
 3. Krishna Yadav @ Krishna Kumar S/O Nandan Prasad Yadav R/O Village- Nayagaavn (BADDIPARA), P.S- East Colony, P.O- Jamalpur, Distt.- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Hema Kumari W/O Deepak Kumar, D/O Late Prem Kumar Yadav R/O Village- Nayagaavn (baddipara), P.S- East Colony, Distt.- Munger. Current Address- Residence Of Village- Kanjipur, Behind P.N. Englo School, P.O- Bankipur, P.S- Kadamkuwan, Distt.- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Brajesh Prasad Gupta, Adv.
For the State	:	Mr. Ram Anurag Singh, APP
For the O.P. No. 2	:	Mr. Ashok Kumar, Adv.
		Mr. Ram Anuj Prasad Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 23-04-2024

Heard the parties.

2. This application has been filed for quashing of order dated 26.02.2020 passed by learned Judicial Magistrate, 1st Class, Patna in Complaint Case No. 783 (C) of 2019 by which the learned Magistrate has taken cognizance of offences punishable under Sections 323 and 498(A) of the Indian Penal



Code against these petitioners.

3. The prosecution case, in short, is that the complainant got married with the co-accused Deepak Kumar on 20.04.2016 as per Hindu rituals and in the marriage the parents of the complainant gave Rs. 5,00,000/- to father-in-law of the complainant. He also gave gold and silver jewellery worth Rs. 20,000/- and gave Rs. 70,000/- to the husband of the complainant to buy clothes. It has been alleged that after marriage she was subjected to torture and harassment and was asked to give of Rs. 3,00,000/- to which she denied as her father was not in condition to fulfill their demand. In 2017, the husband of the complainant took her to Mumbai where he also used to harass her and assaulted her in many ways possible. He also tried to kill her once and in 2018, the husband of the complainant left her in Patna near to her house and went to Mumbai alone. Thereafter, the complainant gave application of harassment to Mahila Thana, Patna. On account of fear, her husband made bond that he will never assault or harass her and both of them signed on that too. But, his behaviour didn't show a slight change. So, she again came back to her house with her daughter. Due to fear of getting into jail, the husband of the complainant again came to her and pleased her with his sweet



talks and took her with him. But he again started to treat her in the same way and again tried to kill her. After which, he again left her on Patna station and from that time, she is residing in her house. She also gave application on 22.02.2019 in Mahila Thana to lodge FIR against her husband but no action was taken.

4. While denying the allegations, learned counsel for the petitioners submits that petitioners are father-in-law, mother-in-law and brother-in-law of the opposite party no. 2 respectively. It is next submitted that these petitioners have falsely been implicated in this case merely on the basis of general and omnibus allegations. Petitioners are living separately. The Opposite party no. 2 married to co-accused Deepak Kumar on 20.04.2016 in Jalla Committee Hall, Patna with Hindu rituals. The husband of the opposite party no. 2 is a constable in C.I.S.F. O.P. No. 2 herself admitted that her husband took her to Mumbai, but she never lived peacefully and used to quarrel with him every day. The husband of the O.P. No. 2 also filed a Matrimonial Case No. 184 of 2018 under Section 9 of the Hindu Marriage Act. This false and concocted case has been lodged only as a counter blast. It is further submitted that the O.P. No. 2 also filed a maintenance case bearing Maintenance Case No. 134 of 2019 against the petitioners in the Court of Principal



Judge, Patna and she is getting Rs. 10,000/- per month. The O.P. No. 2 is neither ready to live alone with her husband nor with her in-laws. The husband of the O.P. No. 2 tried his level best to reside with her peacefully but she didn't co-operate at all. 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.***

5. 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 and harassing the opposite Party No. 2, both mentally and physically. There is sufficient material on record against them and it cannot be said that no prima facie 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



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.

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 & 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.

8. In view of the foregoing discussions, order dated 26.02.2020 passed by learned Judicial Magistrate, 1st Class, Patna, with respect to above named petitioners is, hereby, quashed.

9. This application is accordingly allowed.

utkarsh/-

(Prabhat Kumar Singh, J)

AFR/NAFR	N/A
CAV DATE	N/A
Uploading Date	01.05.2024
Transmission Date	01.05.2024

