

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55099 of 2023**

Arising Out of PS. Case No.-116 Year-2017 Thana- SHEKHPURA COMPLAINT CASE
District- Sheikhpura

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Banti Kumar @ Banti Prasad Son Of Rajendra Prasad Resident Of New
Etavarpur, Kurthaul, Ps- Parsa, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Lovely Devi @ Labhali Devi Wife Of Banti Kumar @ Banti Prasad
Resident Of New Etavarpur, Kurthaul, Ps- Parsa, District- Patna Currently
Residing At D/O- Jawahar Lal @ Pato Lal, Badi Sangat, Pulpar Ps, Distt-
Sheikhpura

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sanchay Srivastava, Adv.
For the State	:	Mr. Navin Kumar Pandey, APP
For the O.P. No. 2	:	Mr. Rudra Deo, Adv.

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT**

Date : 23-04-2024

Heard both sides.

2. This application has been filed for quashing the order dated 06.05.2017 passed by learned J.M. 1st Class, Sheikhpura in Complaint Case No. 116 (C) of 2017 dated 20.03.2017 by which the learned Magistrate has taken cognizance of offences punishable under Sections 323, 406, 498A and 34 of the Indian Penal Code against the petitioner.

3. The prosecution case, in short, is that the complainant got married with this petitioner on 22.04.2015 as per Hindu



rituals and in the marriage the parents of the complainant spent around five lakh rupees in which gold and silver jewellery worth about two lakh rupees were given. It has been alleged that after marriage she was subjected to torture and harassment and her ornaments were snatched, which was informed by the complainant to her parents, on which a *panchayati* was also organized but the petitioner again demanded money for purchase of plot and she anyhow remained there but the accused persons tried to set her on fire and after hue and cry, her father was informed, thereafter her father took her to his house and the petitioner is not ready to take her.

4. Submission of learned counsel for the petitioner is that the petitioner has been falsely implicated in this case for the sole reason that that the petitioner refused to leave his family members and denied the complainant to stay separately with her. Learned counsel next submits that the petitioner and the complainant are legally wedded husband and wife respectively and their marriage was solemnized in the year 2015 as per Hindu rituals. As a matter of fact, the complainant seems to be quarrelsome lady and used to pressurize the petitioner to live in separate accommodation and on small and trivial things used to hurl abuses to the petitioner and his entire family members. She



further used to threaten the petitioner and his family members that if her demands are not fulfilled then the petitioner along with his entire family members will get implicated in criminal cases. It is further submitted that the petitioner owing to the threats rendered and apprehensions had already filed an Information Petition bearing No. 1086 of 2016 prior to this complaint case.

5. Learned counsel for the State as well as for the Informant vehemently opposed the prayer and submitted that at the time of taking cognizance, only facts stated in the complaint petition and the materials collected during the inquiry are to be examined for the purpose of taking cognizance for the offence. At this stage, it cannot be said that no prima facie case is made out against the petitioners and as such, no interference is required by this Court at this stage.

6. Having heard learned counsel for the parties and perused the materials available on record. From bare perusal of the complaint petition, it is apparent that there is specific and direct allegation against this petitioner of commission of torture and harassment to the complainant. The grounds, which have been raised by petitioner, are his defence, which can only be considered during trial. In this connection, reference can be



made to case *Sonu Gupta vs Deepak Gupta & Ors reported in (2015) 3 SCC 424.*

7. In view of the foregoing discussions and the law laid down by the Hon’ble Supreme Court in the case of *Sonu Gupta vs Deepak Gupta & Ors (supra)*. I do not find illegality or irregularity in the impugned order warranting any interference by this Court.

8. This quashing application is, accordingly, dismissed.

(Prabhat Kumar Singh, J)

utkarsh/-

AFR/NAFR	N/A
CAV DATE	N/A
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