

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55112 of 2022

Arising Out of PS. Case No.-1384 Year-2019 Thana- BHABHU(KAIMUR) COMPLAIN C
District- Kaimur (Bhabua)

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1. Chinta Devi @ Chintamani Devi Wife Of Om Hari Tiwari @ Onkar Nath Tiwari Resident of Village- Chainpur, P.S.- Chainpur, District- Kaimur at Bhabhua
 2. Om Hari Tiwari @ Onkar Nath Tiwari Late Ramshankar Tiwari Resident of Village- Chainpur, P.S.- Chainpur, District- Kaimur at Bhabhua

... .. Petitioner/s

Versus

1. The State of Bihar
2. Arti Devi Wife Of Amit Kumar Tiwari @ Banti at present address- D/O Jitendra Dubey, resident of Village- Ujari sikathi, P.S.- Bhabhua, District- Kaimur at Bhabhua

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pawan Kumar Singh, Advocate
For the Opposite Party/s : Mr. Abhay Kumar Roy, A.P.P.
Mr. Tribhuwan Narayan, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 25-04-2024 Heard the parties.

2. This application has been filed for quashing of the order dated 14.01.2020 passed by learned Judicial Magistrate, 1st Class, Kaimur at Bhabua in Complaint Case No. 1384/2019 whereby cognizance was taken against the petitioners under Section 498A of the Indian Penal Code.

3. Prosecution case, in short, is that opposite party no. 2 was married with co-accused Amit Kumar Tiwari on 31.01.2016 in which Rs. 3 lacs was given to the petitioner No. 2 as gift. It is alleged that after the marriage, husband of the O.P.



No. 2 demanded Rs. 1 lakh as dowry and Rs. 2 lacs for settlement in Delhi. Later, the O.P. No. 2 came to know that his husband has solemnized second marriage and O.P. No. 2 was tortured, harassed and was ousted from the matrimonial house.

4. Learned counsel for the petitioners submits that petitioners are in-laws of the O.P. No. 2. It is next submitted that whenever any dispute arises in between the husband and the wife, the entire family members are implicated in a mechanical manner and general and omnibus allegations with a view to coerce the husband into submission. He further submits that the complaint does not disclose any distinct role or contribution of these petitioners in the alleged occurrence. Petitioners are separate in mess and property and 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 petitioners are named in the



complaint and they were instrumental in torturing the 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.

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 O.P. No.2. Neither date nor time or place regarding the incident happened with the O.P. No. 2 has been mentioned by her that as and when she was subjected to cruelty and harassment by these petitioners in regard to demand of dowry.

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 & Ors versus State of Bihar & Ors*** 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



14.01.2020 passed by learned Judicial Magistrate, 1st Class,
Kaimur at Bhabua in Complaint Case No. 1384/2019 with
respect to these petitioners, is hereby quashed.

9. This application is, accordingly, allowed.

(Prabhat Kumar Singh, J)

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