

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60735 of 2022

Arising Out of PS. Case No.-203 Year-2021 Thana- SIKARPUR District- West Champaran

1. Hazrat Ali Son Of Abdul Hakim R/O Village- Ghosia Near Water Tank, Ravidas Nagr, P.S.- Aurair, Distt.- Bhadohi, Utter Pradesh
2. Hammad Ali Son Of Hazrat Ali R/O Village- Ghosia Near Water Tank, Ravidas Nagr, P.S.- Aurair, Distt.- Bhadohi, Utter Pradesh
3. Adima Tanweer D/O Hazrat Ali R/O Village- Ghosia Near Water Tank, Ravidas Nagr, P.S.- Aurair, Distt.- Bhadohi, Utter Pradesh
4. Sana Tanweer D/O Hazrat Ali R/O Village- Ghosia Near Water Tank, Ravidas Nagr, P.S.- Aurair, Distt.- Bhadohi, Utter Pradesh
5. Ammar Ali Son Of Hazrat Ali R/O Village- Ghosia Near Water Tank, Ravidas Nagr, P.S.- Aurair, Distt.- Bhadohi, Utter Pradesh
6. Nida Tanweer D/O Hazrat Ali R/O Village- Ghosia Near Water Tank, Ravidas Nagr, P.S.- Aurair, Distt.- Bhadohi, Utter Pradesh
7. Sakina @ Sakina Begum Wife Of Hazrat Ali R/O Village- Ghosia Near Water Tank, Ravidas Nagr, P.S.- Aurair, Distt.- Bhadohi, Utter Pradesh
8. Mahfuz Rahman @ Mahfuz Rahman Son Of Late Haji Abdul Hai R/O Village- Ghosia Near Water Tank, Ravidas Nagr, P.S.- Aurair, Distt.- Bhadohi, Utter Pradesh
9. Ibrat Tanweer D/O Hazrat Ali R/O Village- Ghosia Near Water Tank, Ravidas Nagr, P.S.- Aurair, Distt.- Bhadohi, Utter Pradesh
10. Shaquib Ahmed Son Of Parwej Ahmad R/O Village- Ghosia Near Water Tank, Ravidas Nagr, P.S.- Aurair, Distt.- Bhadohi, Utter Pradesh
11. Farhat Tanweer D/O Hazrat Ali R/O Village- Ghosia Near Water Tank, Ravidas Nagr, P.S.- Aurair, Distt.- Bhadohi, Utter Pradesh
12. Nasrat Ali Son Of Abdul Hakim R/O Village- Ghosia Near Water Tank, Ravidas Nagr, P.S.- Aurair, Distt.- Bhadohi, Utter Pradesh

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shabnam Ara D/O M. Azhar R/O Village- Dhum Nagar, P.S.- Shikarpur, Distt.- West Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gauri Shankar Thakur, Advocate
For the Opposite Party/s : Mr. Ajay Kumar Jha, A.P.P.
Mr. Binay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER



5 25-04-2024 At the outset, learned counsel for the petitioners seeks permission to withdraw this quashing application with respect to petitioner No. 10, namely, Shaquib Ahmed.

2. Permission accorded.

3. **The quashing application with respect to petitioner No. 10, namely, Shaquib Ahmed is dismissed as withdrawn.**

4. Heard the parties.

5. This application has been filed for quashing the order dated 12.07.2022 passed by learned Chief Judicial Magistrate, Bettiah, West Champaran in Shikarpur P. S. Case No. 203/2021 whereby cognizance has been taken against the petitioners under Sections 341, 323, 498A, 504/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act

6. Petitioner No. 1 is father-in-law, petitioner Nos. 2 & 5 are brothers-in-law, petitioner Nos. 3, 4, 6, 7, 9 & 11 are sisters-in-law, petitioner No. 8 is husband of petitioner No. 9 (brother-in-law) and petitioner No. 12 is cousin father-in-law of the O.P. No. 2.

7. Prosecution case, in short, is that opposite party no. 2 was married with co-accused Arshad Ali in the year 2019 in which her father gave cash, ornaments and a four vehicle to her



husband and these petitioners as gift. It is alleged that after the marriage, these petitioners including the husband of O.P. No. 2 started demanding Rs. 10 lacs as dowry and when she objected the said demand, she was subjected to torture and harassment. It is further alleged that on 30.03.2021, all the accused persons assaulted O.P. No. 2 by means of lathi, danda, fist and slaps and abused her. Lastly, it is alleged that co-accused Shaquib Ahmed assaulted O.P. No. 2 with knife and thereafter, she was taken to the hospital for treatment.

8. 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 F.I.R. 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**.

9. 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 F.I.R. 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.

10. Having heard the submissions advanced by learned counsel appearing on behalf of the parties and on perusing the materials available on record, and the F.I.R., 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.

11. 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.

12. In view of the foregoing discussions, order dated 12.07.2022 passed by learned Chief Judicial Magistrate, Bettiah, West Champaran in Shikarpur P. S. Case No. 203/2021 with respect to these petitioners, is hereby quashed.

13. This application is, accordingly, allowed.

(Prabhat Kumar Singh, J)

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