

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60547 of 2023

Arising Out of PS. Case No.-505 Year-2021 Thana- KOTWALI District- Munger

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1. NEELAM DEVI W/O ARJUN SAH RESIDENT OF VILLAGE MILKI TOLA P.S. ASARGANJ DISTRICT MUNGER
 2. RAHUL DEO UJJAWAL @ RAHUL KUMAR UJJAWAL S/O ARJUN SAH RESIDENT OF VILLAGE MILKI TOLA P.S. ASARGANJ DISTRICT MUNGER
 3. POOJA KUMARI @ POOJA DEVI W/O RAHUL DEO UJJAWAL @ RAHUL KUMAR UJJAWAL RESIDENT OF VILLAGE MILKI TOLA P.S. ASARGANJ DISTRICT MUNGER

... .. PETITIONER/S

VERSUS

1. THE STATE OF BIHAR
2. AALISHA AANAND D/O CHANDRA BHANU SAHU R/O VILL.- SHADIPUR, P.S.- KOTWALI, DIST.- MUNGER

... .. OPPOSITE PARTY/S

Appearance :

For the Petitioner/s	:	Yogesh Chanda Verma, Sr. Advocate Devika Rani , Advocate
For the Opposite Party/s :		Mr. Jai Narain Thakur , APP
For OP 2	:	Sarandha Suman, Advocate Aditi Sharma, Advocate Shrishti Rani , Advocate Sanjiv Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 23-04-2024 This application has been filed for quashing the order dated 13.03.2023 by the learned S.D.J.M., Munger passed in Kotwali P.S. Case No. 505/2021 whereby discharge petition under section 239 of Cr. PC has been rejected filed by the petitioners and another from the offence punishable under



sections 498A, 504/34 of the Indian Penal Code and sections 3/4 Dowry Prohibition Act.

2. The prosecution case, in brief, is that On November 19, 2021, at 08.30 pm, the informant, *Alisha Anand*, lodged information with *Munger Kotwali* Police Station, stating that on November 23, 2015, her marriage was solemnized with *Anupam Anurag* as per Hindu rights. At the time of marriage, her father gifted her a car, ornaments, clothes, etc. worth Rs. 25 lakhs. Her father also gave her rupees 4 lakhs in bank accounts besides cash rupees 2 lakhs for welcoming the *barat*. He spent a total of 25 lakhs. After marriage, she came to her matrimonial house. Later on, she went to *Khagaria*, where her husband was posted as a junior engineer in the irrigation department. After some time, her *gotani Pooja Devi* came to *Khagaria* and started to live with them. One night, she saw that her husband was in an objectionable condition with her *gotani*. She protested the same, on which her husband and *Gotani* told her not to repeat the same in the future. The next day, *Gotani* returned to *Asaraganj*. In the meantime, she became pregnant. Her husband got to her parental house, where she gave birth to a baby in the month of May 2018. After the birth of her



daughter, her mother-in-law *Neelam Devi*, father-in-law *Arjun Sah*, *gotani Pooja Devi*, *Bhaisur Rahul Dev*, *Ujjwal*, and her husband started torturing her physically and economically. They started to demand Rs 5 lakhs for purchasing cars. Her husband and brother also pressured her for the same. She protested the same, on which they assaulted her on November 15, 2021. Her mother-in-law, father-in-law, brother-in-law, and *gotani* came with *Prasad* of *Chhatat Khagaria* home. On 16.11.2021 in the night at 11.00 pm they demanded rupees 5 lakhs. On protest, they assaulted her, and her husband tried to kill her by pressing her neck against a mobile charger. She raised a hullabaloo, then her neighbor and owner of the house came there and saved her. The accused persons fled away. In the morning of November 17, 2021, the informant reported the matter to the *Khagaria Mahila* Police Station. The officer in charge called her husband by mobile, scolded him, and ordered him to reach her at her father's house. It is further alleged that her husband and father-in-law had committed such an occurrence earlier, and she reported about the same *Mahila* Police Station. On which the police took bond from her husband and father-in-law and gave a warning that her father-in-law was not coming, they left them.



3 . Petitioner No. 1 is the mother-in-law , petitioner No. 2 is the *Bhaisur* and petitioner No. 3 is the *Gotni* of the informant.

4. While denying the allegations, learned counsel for the petitioners contended that even if the entire facts mentioned in the FIR is taken into consideration in its entirety, then prima facie no case is made out against the petitioners under sections 498, 504 and 34 of Indian Penal Code and 3/ 4 of the D. P Act, therefore, to prevent the abuse of process of law, the entire proceeding including the order of cognizance may be quashed. It is further contended that the prosecution story as per FIR is doubtful and on the basis of omnibus and vague allegation these petitioners have falsely been implicated in this case. He lastly submits that there is no specific allegation against them for commission of the alleged cruelty or demand of dowry. As such, 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 FIR 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 FIR, it appears that only omnibus allegations have been made by opposite party no.2.

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 13.03.2023 by the learned S.D.J.M., Munger passed in Kotwali P.S. Case No. 505/2021 with respect to these petitioners only , is hereby quashed.

9. This application is accordingly allowed.

(Prabhat Kumar Singh, J)

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