

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59412 of 2023

Arising Out of PS. Case No.-24 Year-2019 Thana- MAHILA P.S. District- Nalanda

1. Md Jasimuddin @ Md Jasimuddin Firdaushi S/O Alte Ajemuddin R/O Mohalla- Pakki Talab Near Sakil Ahmad, Adv.), P.O.-BIHARSHARIF, Ps. Laheri, Dist. Nalanda
2. Rakiba Khatoon W/O Md. Jasimuddin @ Md. Jasimuddin Firdaushi R/O Mohalla- Pakki Talab Near Sakil Ahmad, Adv.), P.O.-BIHARSHARIF, Ps. Laheri, Dist. Nalanda
3. Md. Shams Waseem S/O Md. Jasimuddin @ Md. Jasimuddin Firdaushi R/O Mohalla- Pakki Talab Near Sakil Ahmad, Adv.), P.O.-BIHARSHARIF, Ps. Laheri, Dist. Nalanda
4. Md. Shams Shamim S/O Md. Jasimuddin @ Md. Jasimuddin Firdaushi R/O Mohalla- Pakki Talab Near Sakil Ahmad, Adv.), P.O.-BIHARSHARIF, Ps. Laheri, Dist. Nalanda
5. Zeba Jasim @ Mona D/O Md. Jasimuddin @ Md. Jasimuddin Firdaushi, W/O Shahid Hasnain Resident Of Matiaburz Colcatta
6. Sannu Jashim W/O Md. Afaque Haidar @ Manto, D/O Md. Jasimuddin @ Md. Jasimuddin Firdaushi R/O Roshan Manzil, P.O.-BHAGA, Ps. Jora Pokhar, Dist. Dhanbad (JHARKHAND)
7. Md. Afaque Haider @ Manto S/O Mohammad Ishaq R/O Roshan Manzil, P.O.-BHAGA, Ps. Jora Pokhar, Dist. Dhanbad (JHARKHAND)

... .. Petitioner/s

Versus

1. The State Of Bihar Nalanda
2. Alwiya Irfana W/O Md. Shams Nadeem, D/O Md. Raziuddin Aqdas R/O Mohalla- Pakki Talab, Near Shakil Amzad, Advocate, Ps. Laheri, Po-Biharsharif, Dist. Nalanda, Present Address- Kashi Takiya (behind Mahboob Hotel), Po. And Ps. Biharsharif, Dist. Nalanda

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mrs. Meena Singh, Advocate
For the Opposite Party/s	:	Mr. Shyameshwar Dayal, A.P.P. Mr. Raj Kishor Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 18-03-2024 This application has been filed for quashing of cognizance order dated 16.05.2023 under Section 190 Cr.P.C. passed in Nalanda (Mahila) P. S. Case No. 24/2019, G.R. 1001120/19, T.R. No. 3854/2023 by the Sub-Divisional Judicial Magistrate, Biharsharif, Nalanda whereby and where under



cognizance has been taken by against these petitioners under Sections 307, 313, 323, 498A/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

2. Petitioner No.1 is father-in-law and petitioner No.2 is mother-in-law and petitioner Nos. 3 & 4 are brothers-in-law, petitioner Nos. 5 & 6 are married sisters-in-law and petitioner No. 7 is Nandosi (husband of petitioner No. 6) of opposite party No.2.

3. Learned counsel for the petitioners submits that from bare perusal of the F.I.R. it would manifest that allegation against these petitioners are general and omnibus in nature and petitioners, being relatives to the husband of the opposite party No. 2, have been falsely implicated in this case. It is next submitted that whenever any dispute arises between husband and wife, entire family members are implicated in mechanical manner. He further submits that no specific role has been attributed to these petitioners. F.I.R. does not disclose any direct involvement of these petitioners in the alleged offence. No specific date, time and place has been mentioned in the F.I.R. as to when opposite party No. 2 was subjected to cruelty and harassment in connection with demand of dowry and 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**.

4. 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 and as such, this application is devoid of merit and is fit to be dismissed.

5. 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 opposite party no.2 against these petitioners who are relatives of the husband of opposite party No. 2.

6. 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.

7. In view of the foregoing discussions, order dated 16.05.2023 passed in Nalanda (Mahila) P. S. Case No. 24/2019, G.R. 1001120/19, T.R. No. 3854/2023 by the Sub-Divisional Judicial Magistrate, Biharsharif, Nalanda with respect to these petitioners, is hereby quashed.

8. This application is, accordingly, allowed.

(Prabhat Kumar Singh, J)

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