

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59102 of 2023

Arising Out of PS. Case No.-35 Year-2022 Thana- MAHILA P.S. District- Sitamarhi

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1. SHANTI DEVI W/O RAJDEO YADAV R/O VILLAGE- KARHARA, P.S- BENIPATTI, DISTT.- MADHUBANI.
 2. RAJDEO YADAV @ INDRA YADAV S/O LATE PUKAR YADAV R/O VILLAGE- KARHARA, P.S- BENIPATTI, DISTT.- MADHUBANI.

... .. Petitioner/s

Versus

1. The State of Bihar
2. CHANDNI KUMARI W/O RAMPRIT YADAV, D/O CHHOTE RAI R/O VILLAGE- KESHOPUR, PURA, P.S- PURPRI, DISTT.- SITAMARHI.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Murari Narain Chaudhary, Advocate
For the Opposite Party/s : Mr. Mohammed Arif , APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 23-04-2024 This application has been filed for quashing the order dated 28.04.2023, passed by the learned S.D.J.M. *Pupri (Sitamarhi)* In *Mahila (Sitamarhi)* P.S. Case No. 35 of 2022/ G.R. No.4285 of 2022, whereby and where under cognizance for the offences under section 323, 341, 498(A), 504 and 506/34 of the Indian Penal Code as well as Under Section 3/4 of the Dowry Prohibition Act has been taken against both these petitioners along with the husband of the informant.

2. The prosecution case, in brief, is that the informant was married to *Ramprit Yadav* on April 30, 2021, with Hindu rites and rituals, in which her father had given Rs. 6 lacs in cash



as well as clothes and jewelry worth Rs. 3 lacs, excluding spending Rs. 2 lacs over marriage reception. It is alleged that after marriage, the informant came to her sasural on April 31, but just two days after her marriage, all the accused persons, named in the F.I.R., started pressuring her to bring one bullet motorcycle in the form of dowry, but she refused, saying that her father was not capable of fulfilling their demand, upon which they all started assaulting her every day. It is further alleged that the husband of this informant was instigated by his friend *Mithilesh Mishra* and in the meantime, when her husband was going to contest election of *Panchayat Samiti*, then his family members and friend *Mithilesh Mishra* started demanding Rs.50000/- and a motorcycle and whenever a protest was made on her behalf, she was being assaulted and when the informant had conveyed this message to her parents, they had tried to convince them but with no result and in the meantime on 05.11.2021, she was ousted from her *sasural* and since then she was living with her parents but even though after coming to this place, they are giving threatening to solemnize second marriage of their son, hence a request was made to take legal action against all the named accused person.

3 . Petitioner No. 1 is mother-in-law and petitioner No.



2 is father-in-law of the informant.

4. While denying the allegations, learned counsel for the petitioner 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 petitioner under sections 323, 341, 498(A), 504 and 506/34 of the Indian Penal Code as well as Under Section 3/4 of the Dowry Prohibition 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 whenever any dispute arises in between the husband and the wife, the entire family members are implicated in a mechanical manner with general, omnibus and ornamental allegation. 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 have 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 along with other co-accused persons were instrumental in torturing the opposite Party No. 2, both mentally and physically. There is sufficient material on record against these petitioners 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 F.I.R, it appears that only omnibus allegations have been made accused by the informant/opposite party No. 2. Neither any date nor time or place regarding the incident happened with informant has been mentioned by her that as and when she was subjected to cruelty and harassment 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 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 28.04.2023, passed by the learned S.D.J.M. *Pupri (Sitamarhi)* In *Mahila (Sitamarhi)* P.S. Case No. 35 of 2022/ G.R. No.4285 of 2022 , with respect to these petitioners only , is hereby quashed.

9. This application is accordingly allowed.

(Prabhat Kumar Singh, J)

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