

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60593 of 2023

Arising Out of PS. Case No.-688 Year-2020 Thana- PATNA COMPLAINT CASE District-
Patna

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1. SHABANA KHATOON @ NIKHAT JAHAN W/O MD. SHAMIM UDDIN RESIDENT OF MOHALLA- AMIN COLONY, LODI KATRA, NEAR GANDHI SCHOOL, PATNA CITY, PATNA 800008, P.S.- KHAJEKALAN, P.O.- JHAUGANJ, DISTT.- PATNA, BIHAR.
 2. MOHD. SHAMIMUDDIN @ MD. SAMIM UDDIN S/O MD KALIM UDDIN RESIDENT OF MOHALLA- AMIN COLONY, LODI KATRA, NEAR GANDHI SCHOOL, PATNA CITY, PATNA 800008, P.S.- KHAJEKALAN, P.O.- JHAUGANJ, DISTT.- PATNA, BIHAR.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. SHAJYA NAJ W/O MD. NADEEM, D/O SHAMSHAD ALI RESIDENT OF MOHALLA- AMIN COLONY, LODI KATRA, P.S.- KHAJEKALAN, P.O.- JHAUGANJ, DISTT.- PATNA, PRESENTLY RESIDENT OF DARGAH ROAD, PATHER KI MASJID, P.S- SULTANGANJ, P.S- MAHENDRU, DISTT.- PATNA, BIHAR.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Azimuddin, Advocate
For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 23-04-2024 This application has been filed for quashing the order dated 09.03.2021 passed by Id. Sub Divisional Judicial Magistrate , Patna City in connection with C A No. 688 of 2020, whereby and where under Cognizance of the offence punishable under sections 323 , 498 A of I. P . C and section 4 of the D. P Act.

2. The prosecution case, in brief, is that opposite party no. 2 filed a complaint case no. 688(c) of 2020 before the



Learned Additional Chief Judicial Magistrate, Patna City, stating that a marriage was solemnized with Md. Nadeem on March 27, 2018 in accordance with Muslim rites and customs, and it is alleged that gifts of three lack cash, a motorcycle, gold, etc. were given. The complainant husband is employed by a private firm, and her husband used to demand cash for doing business. It is further alleged that all the accused persons, along with the husband of the complainant, mentally and physically tortured and harassed her for the demand of dowry. It is further stated that the complainant gave birth to a daughter on February 4, 2020, and after delivery, she was taken to her paternal home.

3 . Petitioner No. 1 is the mother-in-law and petitioner No. 2 is the father-in-law of opposite party No. 2.

4. While denying the allegations, learned counsel for the petitioners contended that even if the entire facts mentioned in the complaint is taken into consideration in its entirety, then prima facie no case is made out against the petitioners under sections 498 (A) of Indian Penal Code . 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 complaint is doubtful and on the basis of omnibus and vague allegation these petitioners have



falsely been implicated in this case. He lastly submits whenever any dispute arises in between husband and wife the entire family members are implicated in a mechanical manner with general and omnibus allegations. 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 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 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 09.03.2021 passed by Id. Sub Divisional Judicial Magistrate , Patna City in connection with C A No. 688 of 2020, whereby and where under Cognizance of the offence punishable under sections 323 , 498 A of I. P . C and section 4 of the D. P Act , with respect to these petitioners only , is hereby quashed.

9. This application is accordingly allowed.

(Prabhat Kumar Singh, J)

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