

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62987 of 2022

Arising Out of PS. Case No.-91 Year-2021 Thana- MAHILA P.S. District- Rohtas

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RAJU KUMAR SINGH S/O LATE BABAN SINGH RESIDENT OF
VILLAGE- BHAI SAHA, P.S.- INDRAPURI, DISTRICT- ROHTAS.

... .. PETITIONER/S

VERSUS

1. THE STATE OF BIHAR
2. REEMA KUMARI W/O HIMNASHU KUMAR AT PRESENT
VILLAGE- RAJBARWA BIGHA POST AND P.S.-
DALMIANAGAR, DISTRICT- ROHTAS

... .. OPPOSITE PARTY/S

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Appearance :

For the Petitioner/s : Mr. Vaishnavi Singh, Advocate

For the Opposite Party/s : Mr. Binod Kumar , APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 13-03-2024 Heard learned counsel for the parties.

2. This application has been filed for quashing
of order dated 03.08.2022 passed passed by learned
Additional Chief Judicial Magistrate , Sasaram at
Rohyas in Mahila P . S. Case No. 991 of 2021; G.R. No.
2124 of 2021 , whereby and whereunder he has taken
cognizance and issued process against the petitioner and
other for facing trial for the offence under Sections 341 ,



323 , 313 , 498 A and 34 of the Indian Penal Code and section 3/4 of the Dowry Prohibition Act.

3 . The prosecution case, in brief, is that informant *Rima Kumari* solemnized marriage with *Himanshu Kumar* on December 8, 2020, as per Hindu ritual, and after the marriage, she went to her Sasural. In the marriage, her parents gave her cash of Rs. 10 lacs and other articles. In the sasural, she lived properly for a week, and thereafter, her mother-in-law *Kiran Devi*, *Nanad Kajal Kumari*, *Nandosi Bhanu Pratap Singh @ Banti*, and *Mamiya Sasur* of her *Nanad*, namely *Raju Kumar Singh* (the petitioner), demanded Rs. 5,00,000/- from her. When she showed the inability of her parents, they started torturing her mentally and physically. Sometimes no food was given by her mother-in-law, and they tortured her in different ways. One day, her *Mamiya Sasur* and one unknown person came, and when she asked him, he started assaulting her. In the meantime, she became pregnant, and her mother-in-law gave her medicine, saying she had a fever, but after taking the



medicine, her pregnancy was aborted. They used to threaten to leave; otherwise, she would be killed. All the affairs of her *sasural* are maintained by her *Mamiya Sasur*, and at his instigation, the *sasural* people used to torture her. Lastly, she informed her father, who came and tried to pacify the matter, but they did not listen. On February 3, 2021, her brother took her to Maiké. On intervention by police, her husband and mother-in-law gave assurance in writing on August 2, 2021, that her *bidagiri* would be performed in *Sawan* 2021, but till date, her *bidagiri* has not been performed. They did not pick up the phone. On November 19, 2021, she submitted an application to *Mahila* Police Station in *Dihri*. They came to the police station on November 21, 2021, and gave in writing that they would perform *Bidagiri* on November 29, 2021, but after three days, a phone call came to her from her husband saying that she had to give in writing to Sasaram Court that if she died, the Sasaram people would not be responsible; otherwise, Rs. 5,00,000 and articles would be provided. The



aforesaid conversation is preserved on her mobile. Till December 3, 2021, no one came to perform her *Bidagiri*.

4. Petitioner is the *Mamia Sasur* of *Nanad* of the informant.

5 . While denying the allegations, it is contended on behalf of the petitioner that if the entire fact mentioned in the F.I.R is taken into consideration in its entirety even then prima facie no case is made out against this petitioner under Section 498 A of the IPC. Therefore, to prevent abuse of process of law entire proceeding may be quashed. It is further contended that the entire prosecution story as per FIR is doubtful on the basis of omnibus, vague allegations, petitioner has been falsely implicated and prima facie no case is made out against him. It is further contended that neither any date nor time or place regarding the incident happened with the informant has been mentioned, as to how and when she was subjected to cruelty and harassment in regard to demand of dowry. In this connection, learned counsel for the petitioner 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.***

6. 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 petitioner and submits that petitioner is named in the FIR and he was instrumental in torturing the opposite Party No. 2, both mentally and physically. There is sufficient material on record against him and it cannot be said that prima facie no case is made out against the petitioner. Hence, no interference is required by this court at this stage.

7. Having heard the submissions advanced by learned counsel appearing on behalf of the parties and on perusing the materials available on record, it is settled law that in absence of clear and specific allegation against relative of the husband of the informant would simply result in abuse of process of law, if allegations made out against him is general and omnibus, he does



not warrant prosecution . In the present case no specific and distinct allegation has been made out against this petitioner nor this petitioner has been attributed specific role. In the FIR, it appears that only omnibus allegations have been made by opposite party no.2.

8 . 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 petitioner, it would be unjust if the petitioner is forced to go through the tribulations of a trial.

9. In view of the foregoing discussions, order dated 03.08.2022 passed passed by learned Additional Chief Judicial Magistrate , Sasaram at Rohyas in Mahila P . S. Case No. 991 of 2021 , G.R. No. 2124 of 2021 , with respect to this petitioner is hereby quashed.



10 . This application is accordingly allowed.

(Prabhat Kumar Singh, J)

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