

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67455 of 2023

Arising Out of PS. Case No.-3981 Year-2023 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Shukhnandan Paswan Son Of Late Devlal Paswan Village- Bijora, Ps- Bhagwanganj, Masudhi, Distt- Patna
 2. Kailashi Devi Wife Of Shukhnandan Paswan Village- Bijora, Ps- Bhagwanganj, Masudhi, Distt- Patna
 3. Vijay Paswan Son Of Late Ramanand Paswan Village- Bijora, Ps- Bhagwanganj, Masaurdhi, Distt- Patna
 4. Amar Kumar Paswan @ Amar Paswan Son Of Yamuna Paswan Village- Sahar, Ps- Bhojpur (Kotwali), Distt- Bhojpur At Ara

... .. Petitioner/s

Versus

1. The State of Bihar
2. Neha Priya Wife Of Rajesh Kumar, D/O Late Chitranjan Paswan Village- Bijora, Ps- Bhagwanganj, Masaudhi, Distt- Patna. Presently Residing At Village- Barhampur, Anisabad, Ps- Beur Distt- Patna-800002

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Kamod Kumar Vidyarthi, Advocate
For the Opposite Party/s :	Mr. Mritunjay Kumar Nirala, A.P.P.
	Mr. Saket Anand, Advocate
	Mr. Alok Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 15-04-2024 Learned counsel for the opposite party No. 2 files counter affidavit in the Court today, copy of which has already been served upon the learned counsel for the petitioners.

2. Heard the parties.

3. This application has been filed for quashing of order dated 12.06.2023 passed by the learned Sub-Divisional Judicial Magistrate, Patna in connection with Complaint Case No. 3981(C)/2023 whereby and where under cognizance of



offences under Section 498(A) of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act has been taken against the petitioners.

4. Petitioner No.1 is father-in-law, petitioner No. 2 is mother-in-law, petitioner No. 3 is maternal uncle of the opposite party No. 2 and petitioner No. 4 is brother-in-law of the husband of opposite party No.2.

5. Prosecution case, in short, is that opposite party no.2 was married to co-accused Rajesh Kumar on 19.11.2023 and out of the wedlock two children were born. At the time of marriage, father of the opposite party No. 2 gave Rs. 10 lacs cash, gold and silver jewellery and other household furniture. It is alleged that after marriage, all the accused persons started demanding dowry, Honda City Car and a piece of land in Patna. When the opposite party No. 2 expressed her inability to fulfill the demand, she was subjected to torture and harassment. It is further alleged that on 01.04.2023, all the accused persons along with 8-10 unknown persons, abused and assaulted her and ousted her from the matrimonial house.

6. Learned counsel for the petitioners submits that petitioners have falsely been implicated in this case merely because they happen to be relatives of the opposite party No. 2.



Petitioners are living separately and are not concerned with the day-to-day affairs of the opposite party No. 2 and her husband. As a matter of fact, husband of the opposite party No. 2 has filed an Informatory Petition NO. 40554/2022 against the opposite party No. 2 and her family members for protection of life and implication in any case by her as also, he has filed a Matrimonial Case No. 1512/2022 dated 14.11.2022 before the Principal Judge, Patna under Section 9 of the Hindu Marriage Act for restitution of conjugal rights and thereafter, this false and concocted case has been filed only with a view to harass the petitioners. He further submits that the F.I.R. does not disclose any distinct role or contribution of these petitioners in the alleged occurrence and they have been made accused merely on the basis of general and omnibus allegation. Petitioners are separate in mess and property and 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.

7. 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. Hence, this application is devoid of merit and is fit to be quashed.

8. 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.

9. 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.

10. In view of the foregoing discussions, order dated 12.06.2023 passed by the learned Sub-Divisional Judicial Magistrate, Patna in connection with Complaint Case No.



3981(C)/2023 with respect to these petitioners, is hereby
quashed.

11. This application is, accordingly, allowed.

(Prabhat Kumar Singh, J)

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