

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64527 of 2023

Arising Out of PS. Case No.-70 Year-2021 Thana- MAHILA P.S. District- Rohtas

1. DEEPAK KUMAR SON OF GOPAL PRASAD GUPTA RESIDENT OF VILLAGE -RAFIGANJ, NEAR SHIV MANDIR, PS- RAFIGANJ, DISTRICT AURANGABAD, BIHAR PRESENTLY RESIDING AT T-2/308, PANCHSHEEL PEBBLES, SECTOR 3, VAISHALI, DISTT- GHAZIABAD, UP
2. AMAN KUMAR SON OF GOPAL PRASAD GUPTA RESIDENT OF VILLAGE -RAFIGANJ, NEAR SHIV MANDIR, PS- RAFIGANJ, DISTRICT- AURANGABAD, BIHAR PRESENTLY RESIDING AT QUARTER NO. 307, R.K. PURAM, NEW DELHI
3. REKHA KUMARI WIFE OF DEEPAK KUMAR RESIDENT OF VILLAGE -RAFIGANJ, NEAR SHIV MANDIR, PS- RAFIGANJ, DISTRICT AURANGABAD, BIHAR PRESENTLY RESIDING AT T-2/308, PANCHSHEEL PEBBLES, SECTOR 3, VAISHALI, DISTT- GHAZIABAD, UP

... .. Petitioner/s

Versus

1. The State of Bihar
2. INDU DEVI DAUGHTER OF RAJENDRA PRASAD GUPTA RESIDENT OF VILLAGE - DHELABAD, PS- ROHTAS, DISTT- ROHTAS

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kumar Ravish, Advocate
For the Opposite Party/s : Mr. Tapeswar Sharma, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 11-03-2024 This application has been filed for quashing of order dated 30.03.2022 passed in connection with Mahila Police Station Case No. 70 of 2021 passed by the learned Additional Chief Judicial Magistrate, District- Rohtas, which was instituted under sections 341 , 323 , 498A 504, 506 and 34 of the I. P . C .

2. The prosecution case, in brief, is that informant, namely, *Indu Devi*, solemnized marriage with *Pankaj Kumar*, Son of *Gopal Prasad Gupta*, and after marriage, the in-laws



started torturing the informant for dowry, and in the meanwhile, one girl was born out of the wedlock who is now aged about six years. It is further alleged that the in-laws of the informant continued to demand dowry, particularly an Alto car, and even assaulted the informant for non-fulfillment of dowry, and ultimately, on 16.6.2018, she was ousted of the matrimonial house, and as such, she filed a criminal complaint under Case No. 213 of 2018 before the SDJM, Dehri, *Rohtas*, against her in-laws, as well as a maintenance case under Case No. 219 (M) of 2019. It is further alleged that the husband has five brothers, and the husband, *Pankaj Kumar*, is the Assistant Accounts Officer in PCDA, Navy, and Coast Guard at New Delhi. Other brothers, *Deepak Kumar* and *Aman Kumar*, reside at *Rafiganj*, but currently all of them are residing in New Delhi. It is further alleged that after the case, the matter was settled, and the informant was to be kept with dignity and as such, she was taken to New Delhi, and started staying in New Delhi, but there her husband and other accused persons assaulted her on her breast, due to which she is suffering from breast cancer. It is also alleged that on September 25, 2020, she was assaulted by accused persons *Pankaj Kumar*, *Deepak Kumar*, and *Aman Kumar*; on September 26, 2020, she was assaulted by *Pankaj*



Kumar; and on September 27, 2020, the husband *Pankaj Kumar* left the informant and his daughter and started staying with his brother Aman Kumar in New Delhi. It is also alleged that husband Pankaj Kumar developed an illicit relationship with *Devrani*, namely, *Rekha Kumari*, wife of *Deepak Kumar*.

3. While denying the allegations, learned counsel for the petitioners submits that petitioner Nos. 1 and 2 are younger brothers of the husband of the informant and petitioner No. 3 is wife of the petitioner No. 1 i. e., *devrani* of the informant. . It is next submitted that the FIR does not disclose any distinct role or contribution of these petitioners in the alleged occurrence and merely on the basis of general and omnibus allegation they have been made accused in this case . 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 FIR



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.

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 complaint, it appears that only omnibus allegations have been made by opposite party no.2 against these petitioners. No specific role has been attributed to them.

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 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.

7. In view of the foregoing discussions, order dated 30.03.2022 passed in connection with Mahila Police Station



Case No. 70 of 2021 passed by the learned Additional Chief
Judicial Magistrate, Rohtas, with respect to these petitioners, is
hereby quashed.

8. This application is accordingly allowed.

(Prabhat Kumar Singh, J)

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