

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.693 of 2022

Arising Out of PS. Case No.-19 Year-2020 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Deepak Sharma Son of Mahendra Thakur @ Mahendra Sharma Resident of Village - Nadaura, P.s.- Gurua, Distt.- Gaya.
 2. Shanti Devi W/o Mahendra Thakur @ Mahendra Sharma Resident of Village - Nadaura, P.s.- Gurua, Distt.- Gaya.
 3. Mahendra Thakur @ Mahendra Sharma Son of Late kashwar Thakur Resident of Village - Nadaura, P.s.- Gurua, Distt.- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anjani Devi @ Anjali Kumari W/o Deepak Sharma Resident of Village - Nadaura, P.O.- Phulwariya Baheri, P.s.- Gurua, Distt.- Gaya. at Present Anjani Kumari , D/o Bihari Thakur , Village and P.O.- Ketaki, P.S.- Dev , Distt.- Aurangabad.
3. Uttam Sharma @ Uttam Kumar Sharma Resident Of Village - Nadaura, P.S. - Gurua, District - Gaya

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dharmesh Kumar, Advocate
For the Opposite Party/s : Mr. Anuj Kumar Shrivastava, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 27-03-2024 Heard the parties.

2. This application has been filed for quashing the order dated 26.02.2021 passed by learned Judicial Magistrate, 1st Class, Gaya in Complaint Case No. 19 of 2020 by which the learned court below found the case *prima facie* true against the petitioners under Section 498A of the Indian Penal Code and summons were issued to them.

3. The prosecution case, in brief, is that opposite party



No. 2 married the petitioner No. 1 on 26.04.2014 and her father gave gift of Rs. 2 lacs cash, ornaments worth Rs. 50,000/- and Rs. 10,000/- for other articles. Informant alleges that later petitioner No. 1 established extra-marital relationship and when the informant protested, these petitioners assaulted her and demanded Rs. 1 lakh and other electronics and threatened for re-marriage of petitioner No. 1 if the demand was not fulfilled.

3. Learned counsel for the petitioners submits that the order impugned has been passed without application of mind. He next submits that entire prosecution case is concocted and fabricated only with a view to humiliate and harass the petitioners as petitioners are not related to the opposite party No. 2. As a matter of fact, the opposite party No. 2 opened bank account in Punjab National Bank on 12.10.2015 bearing Account No. 1000000080235 and the address contained in the passbook is as Mrs. Anjali Kumari W/o Uttam Kumar Sharma (opposite party No. 3) of village-Nadaura, P.O. Phulwariya Baheri, Police Station-Gurua, District-Gaya (Annexure-3) and the Voter I Card issued by the Election Commission being YWK 1827393 also contains as Anjali Kumar W/o Uttam Kumar Sharma of village-Nadaura, Police Station-Gurua, District-Gaya (Annexure-4), Aadhaar Card bearing No. 430319854674 which



contains the name Anjali Devi W/o Uttam Kumar Sharma, Ketaki, Aurangabad, the address incorporated in the aadhaar card is of her naihar (Annexure-5). He next submits that opposite party No. 2 has sworn affidavit dated 05.12.2015 before the Notary Public Sherghati, Gaya whereby she has stated the name of her husband as Uttam Kumar Sharma and there is no other person in the village Nadaura, District Gaya of the same identity (Annexure-6). On the aforesaid facts and circumstances, he submits that as a matter of fact, opposite party No. 2 is wife of opposite party No. 3 and as such, no offence is made out against the petitioners.

4. Learned A.P.P. for the State opposed the application and submitted that at the time of taking cognizance, only facts stated in the complaint petition and the materials collected during the inquiry are to be examined for the purpose of taking cognizance for the offence. At this stage, it cannot be said that no prima facie case is made out against the petitioners and as such, no interference is required by this Court at this stage.

5. Heard the parties and perused the materials available on record. The grounds raised by the petitioners for quashing the impugned order are in the realm of defence which cannot be looked into at the stage of taking cognizance. It is



settled law that at the time of taking cognizance and summoning the accused, learned Magistrate is required to apply judicial mind only with a view to take cognizance of the offence. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor is he required to evaluate the merit of the material or evidence of the complaint. In this connection, reference can be made to case ***Sonu Gupta vs Deepak Gupta & Ors*** reported in ***(2015) 3 SCC 424***.

6. In view of the foregoing discussions and the law laid down by the Hon'ble Supreme Court in the case of ***Sonu Gupta vs Deepak Gupta & Ors (supra)***, this Court does not find any illegality or irregularity in the impugned order dated 26.02.2021 passed by learned Judicial Magistrate, 1st Class, Gaya in Complaint Case No. 19 of 2020.

7. This quashing application is, accordingly, dismissed.

(Prabhat Kumar Singh, J)

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