

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64765 of 2022

Arising Out of PS. Case No.-1604 Year-2021 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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1. Kumari Rupam Daughter of Raj Kishore Singh Wife of Ajay Kuamr, Resident of Mohalla - Adarsh Nagar, Ward No.- 10, Police Station and District - Samastipur
 2. Ajay Kumar Son of Late Medani Kuwar Resident of Mohalla - Adarsh Nagar, Ward No.- 10, Police Station and District - Samastipur
 3. Priyanka Kumari Daughter of Raj Kishore Singh Wife of Kumar Saurabh, Resident of Village - Dighra, Ward No.- 4, Police Station - Dighra, District - Samastipur
 4. Kumar Saurabh Son of Arun Kumar Sharma Resident of Village - Dighra, Ward No.- 4, Police Station - Dighra, District - Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rashmi Kumari Wife of Avinash Kumar Daughter of Sri Abhinandan Singh, Resident of Village - Iniyar, Police Station - Muffasil (Lakho O.P.), District - Begusarai

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Achintya Anand, Advocate
For the Opposite Party/s	:	Mr. Shantanu Kumar, A.P.P. Mr. Saroj Kumar Sharma, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 25-04-2024 Heard the parties.

2. This application has been filed for quashing of the order dated 03.02.2022 passed by learned Judicial Magistrate, 2nd Class, Begusarai in connection with Complaint Case No. 1604(C)/2021 under Sections 323, 406, 498A of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

3. Prosecution case, in short, is that opposite party no.



2 was married with co-accused Avinash Kumar on 28.11.2019 in which Rs. 21 lacs, electronic gadgets, ornaments and other household articles valued Rs. 3 lacs were given to her husband and these petitioner as gift. It is alleged that after the marriage, the father-in-law and mother-in-law of the opposite party No. 2 started demanding Rs. 20 lacs as dowry and threatened her to suffer with dire consequence if she failed to fulfill the demand of dowry. It is further alleged that these petitioners used to abuse and mentally harass the O.P. No. 2 on mobile phone and her husband the mother-in-law tried to kill her by pressing her neck.

4. Learned counsel for the petitioners submits that petitioner Nos. 1 & 3 are married sisters-in-law and petitioner Nos. 2 & 4 are brothers-in-law (*nandosī*) of the O.P. No. 2. It is next submitted that whenever any dispute arises in between the husband and the wife, the entire family members are implicated in a mechanical manner and general and omnibus allegations with a view to coerce the husband into submission. He further submits that complaint petition does not disclose any distinct role or contribution of these petitioners in the alleged occurrence. 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**.

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 petition 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 petition, it appears that only omnibus allegations have been made by O.P. No.2. Neither date nor time or place regarding the incident happened with the O.P. No. 2 has been mentioned by her that as and when she was subjected to cruelty and harassment by these petitioners in regard to demand of dowry.

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 & 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.

8. In view of the foregoing discussions, order dated 03.02.2022 passed by learned Judicial Magistrate, 2nd Class, Begusarai in connection with Complaint Case No. 1604(C)/2021 with respect to these petitioners, is hereby quashed.

9. This application is, accordingly, allowed.

(Prabhat Kumar Singh, J)

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