

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68295 of 2023

Arising Out of PS. Case No.-48 Year-2023 Thana- RUPASPUR District- Patna

1. Asha Gupta Wife Of Sunil Kumar Gupta @ Sunil Gupta Resident Of Village - House No. 3/130, Pashupati Vihar, Near Shiv Mandir, R.P.S. More, Po- Danapur, Ps- Rupaspur, Dist- Patna
2. Sunil Kumar Gupta @ Sunil Gupta Son Of Late Ram Ayodhya Sah Resident Of Village - House No. 3/130, Pashupati Vihar, Near Shiv Mandir, R.P.S. More, Po- Danapur, Ps- Rupaspur, Dist- Patna
3. Avinash Gupta Son Of Sunil Kumar Gupta @ Sunil Gupta Resident Of Village - House No. 3/130, Pashupati Vihar, Near Shiv Mandir, R.P.S. More, Po- Danapur, Ps- Rupaspur, Dist- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ram Bahadur Sah Son Of Late Ramashish Sah Resident Of Village And Po- Sursand, Ps- Sursand, Distt- Sitamarhi

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Mr. Gajendra Nath Ojha Mr. Subhen Sarkar
For the Opposite Party/s	:	Mr. Tarun Prasad Mandal Mr. Ajay Mishra

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 03-09-2024 This is an application for quashing of the order dated 31.08.2023 passed by the learned Additional Chief Judicial Magistrate-I, Danapur in the F.I.R. of Rupaspur P.S. Case No. 48 of 2023 registered for the offences punishable under Sections 341, 323, 325, 498-A, 34 of the Indian Penal Code and Section



$\frac{3}{4}$ of the Dowry Prohibition Act.

2. Heard learned senior counsel for the petitioners; Shri Yogesh Chandra Verma, learned APP for the State and learned counsel for the O.P. No. 02.

3. Learned senior counsel for the petitioners at the initial stage wanted this case to be adjourned for settlement between the parties.

4. Mr. Ajay Mishra; learned counsel for the O.P. No. 02 has submitted that the compromise talks have failed between the parties and the petitioners want to delay the disposal of the case under Section 498-A on one ground or another.

5. At this stage, learned senior counsel for the petitioners prays for withdrawing the application filed on behalf of petitioner no. 01 (Asha Gupta) and petitioner no. 02 (Sunil Kumar Gupta) with liberty to raise all the grounds at the stage of framing of charge.

6. Permission is accorded.

7. Accordingly, this application is dismissed as withdrawn on behalf of petitioner no. 01 (Asha Gupta) and petitioner no. 02 (Sunil Kumar Gupta) with the aforesaid liberty to them.

8. So far as petitioner no. 03(Avinash Gupta) is



concerned, he is the brother-in-law (Devar) of the O.P. No. 02. There is general and omnibus allegation against the petitioner no. 03.

9. The learned counsel for the O.P. No. 02 has appeared and opposed the application of the petitioner no. 3.

10. I have considered the submissions of the parties.

11. The Hon'ble Supreme Court in the case of ***Preeti Gupta V/s State of Jharkhand; (2010) 7 SCC 667***, ***Achin Gupta V/s State of Haryana; 2024 SCC OnLine SC 759*** and in the case of ***Kahkashan Kausar & Ors V/s State of Bihar & Ors; AIR (2022) SC 820***, has deprecated the practice of falsely implicating all the family members including the relatives in a dowry case.

12. Considering the law laid down by the Hon'ble Supreme Court, I am of the view that the prosecution of the petitioner no. 03(Avinash Gupta) is an abuse of the process of the Court and the same should not continue.

13. Accordingly, this application is partly allowed and the order dated 31.08.2023 passed by the learned Additional Chief Judicial Magistrate-I, Danapur in the F.I.R. of Rupaspur P.S. Case No. 48 of 2023 registered for the offences punishable under Sections 341, 323, 325, 498-A, 34 of the Indian Penal



Code and Section 3/4 of the Dowry Prohibition Act is hereby
quashed as against the petitioner no. 03(Avinash Gupta) only.

(Sandeep Kumar, J)

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