

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72010 of 2023

Arising Out of PS. Case No.-1108 Year-2021 Thana- PATNA COMPLAINT CASE District-
Patna

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1. DAULY @SHABNAM@DALLY PRAVEEN W/O MD. ZAKIR HUSSAIN
R/O VILL.- KUSDIRAH, P.S.- JAMHOR, DIST.- AURANGABAD
 2. NOORSHAMA W/O MD. SHAUKAT ALAM R/O- LEELA, 9C
MAHAVIR ENCLAVE, MUNDAMUELI, RAMESHWARAM P.S.-
THUPPUMPADY, KOCHI-682507
 3. RUHI NAAZ W/O MD. SHAMIM AHAMAD KHAN RESIDENT OF
KHAJPURA, P.O.- B.V. COLLEGE, P.S.- AIRPORT, DISTRICT- PATNA
 4. SAMIM AHAMAD KHAN @ MD. SAMIM KHAN S/O NASIM
AHAMAD KHAN RESIDENT OF KHAJPURA, P.O.- B.V. COLLEGE,
P.S.- AIRPORT, DISTRICT- PATNA

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. MASUMA KHANAM W/O SAHNAWAJ KHAN R/O- NUN KA
CHAURAH, P.S.- KHAJEKALA, DIST.- PATNA

... .. Opposite Party/s

Appearance :

For the Petitioners	:	Mr. Hemant Kumar, Advocate
For the State	:	Md. Aatur Rahman, APP
For Opposite Party No.2 :		Mr. Shyamal Prakash, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 26-02-2024

1. Heard learned counsel for the petitioners, learned
A.P.P. for the State and learned counsel for Opposite Party No.
- 2.

2. This application has been filed under Section 482
of the Code of Criminal Procedure, 1973, on behalf of the
petitioners for quashing the order dated 20.07.2022 passed by
the learned J.M. 1st Class, Patna City, in Complaint Case No.



1108 of 2021. By the said order, the learned Magistrate took cognizance of offences punishable under Section 498A of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act against all the eight accused persons, including these petitioners.

3. The prosecution story in brief is that on 29.05.2015, the complainant/Opposite Party No. 2 got married with co-accused Shahnawa Khan as per Muslim ceremonies. It is also alleged that at the time of marriage, various articles and cash was given as dowry. Thereafter, it is alleged that all the accused persons, including this petitioner started torturing and harassing the complainant/Opposite Party No. 2 due to non-fulfillment of demand for dowry. It is also alleged that all the accused persons, including these petitioners, made the complainant/Opposite Party No. 2 starve for food and also tried to separate her.

4. Learned counsel appearing on behalf of the petitioners submits that Petitioner Nos. 1 to 3 are sisters-in-law of the complainant/Opposite Party No. 2 and Petitioner No. 4 is husband of Petitioner No. 3, and they are separate in mess and property. It is next submitted that they have nothing to do with the affairs of the complainant/Opposite Party No. 2 and her



husband. Whatever happened between them was personal affairs of the husband and wife, with which the petitioners have nothing to do. It is next submitted that the petitioners have been roped in this case merely because they happen to be relatives of the husband of the complainant/Opposite Party No. 2, in order to harass and humiliate them. It is next submitted that the contents of F.I.R. do not disclose any direct involvement of these petitioners in the alleged offence and as such, continuation of this proceeding 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 complainant/Opposite Party No. 2 vehemently opposes the arguments advanced on behalf of the petitioners and submits that petitioners are named in the complaint and they were instrumental in torturing the complainant/Opposite Party No. 2, both mentally and physically. There is sufficient material on record against the petitioners 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 counsels appearing on behalf of the parties and perusing the materials available on record, this court is of the opinion that merely by making general allegations that the petitioners were also involved in physical and mental torture of the complainant/Opposite Party No. 2 without mentioning even a single incident against them as to how they could be motivated to demand dowry when they were only related as sisters of the complainant's husband. In the entire complaint, neither any date nor time or place of regarding the incident happened with her has been mentioned by the complainant and when she was subjected to cruelty and harassment with regard to demand for 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 (supra)*** 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.

8. In view of the foregoing discussions, the order of cognizance dated 20.07.2022 passed by the learned Judicial Magistrate 1st Class, Patna City, in connection with Complaint Case No. 1108 of 2021, is hereby quashed with respect to these petitioners.

9. Accordingly, the present quashing application is allowed.

(Prabhat Kumar Singh, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.03.2024
Transmission Date	01.03.2024

