

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74125 of 2023

Arising Out of PS. Case No.-3 Year-2023 Thana- MAHILA P.S. District- Bhagalpur

1. MD. SHAMIM KHAN SON OF LATE SHAKIM KHAN RESIDENT OF VILLAGE- RAUSHAN NAGAR (MURLI MANOHAR MANDIR), PS- KHARAGPUR, DIST- MUNGER
2. NASRIN KHAN WIFE OF MD. SHAMIM KHAN RESIDENT OF VILLAGE- RAUSHAN NAGAR (MURLI MANOHAR MANDIR), PS- KHARAGPUR, DIST- MUNGER
3. NAJLA KHAN DAUGHTER OF MD. SHAMIM KHAN RESIDENT OF VILLAGE- RAUSHAN NAGAR (MURLI MANOHAR MANDIR), PS- KHARAGPUR, DIST- MUNGER
4. NAUHEEN KHAN @ MUSKAN DAUGHTER OF MD. SHAMIM KHAN RESIDENT OF VILLAGE- RAUSHAN NAGAR (MURLI MANOHAR MANDIR), PS- KHARAGPUR, DIST- MUNGER

... .. Petitioner/s

Versus

1. The State of Bihar BIHAR
2. TAIYABBA AYAZ WIFE OF SUNNY KHAN @ SHARIK KHAN RESIDENT OF VILLAGE- HABIBPUR, MASZID ROAD, SOUTH TOLA, PO AND PS- HABIBPUR DIST- BHAGALPUR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ajit Kumar Singh
For the Opposite Party/s	:	Mr.Sangeeta Sharma
For the O.P. No. 02	:	Mr. Harish Kumar

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 04-07-2024 Heard learned counsel for the petitioner, learned counsel for the O.P. No. 02 and learned APP for the State.

2. This application has been filed on behalf of the petitioners for quashing the order dated 12.09.2023 passed by the learned Judicial Magistrate, 1st Class, Bhagalpur in connection with G.R. No. 587 of 2023 arising out of Mahila P.S. Case No. 03 of 2023.

3. As per the prosecution case, the petitioners are



said to have harassed the opposite party no. 02 by demanding dowry and are also said to have tortured her.

4. Learned counsel for the petitioners prays for withdrawing this application on behalf of petitioner no. 1 (Md. Shamim Khan) and petitioner no. 2 (Nasrin Khan) with liberty to raise all their grounds at the stage of framing of charge.

5. Permission is granted with the liberty sought for.

6. Accordingly, this application on behalf of petitioner nos. 1 (Md. Shamim Khan) and 2 (Nasrin Khan) is dismissed as withdrawn.

7. So far as petitioner No. 03(Najla Khan) and 04(Nauheen Khan) are concerned, it has been submitted by the learned counsel for the petitioners that they are the *Nanads* of the opposite party no. 2 and there is general and omnibus allegation against them.

8. In support of his submission, learned counsel for the petitioners further relied upon the judgment of the Hon'ble Supreme Court in the case of *Preeti Gupta Vs. State of Jharkhand* reported in *2010 7 SCC 667* and in the case of *Kahkashan Kausar and Ors. Vs State of Bihar and Ors.* reported in *AIR 2022 SC 820*.



9. Learned APP for the State has opposed the prayer of the petitioner nos. 3 and 4 and has submitted that their prayer may also be dismissed and they also may be directed to raise all their grievances in the Court below at the time of framing of charge.

10. I have considered the submissions of the parties.

11. So far as the allegation against petitioner Nos. 03 and 04 is concerned, it is general and omnibus and the objection of the learned APP for the State that the petitioner Nos. 03 and 04 may also be directed to raise all the points at the time of framing of charge is also fit to be rejected in view of the judgment of Hon'ble Supreme Court passed in the case of *Ashok Chaturvedi & Ors Vs Shitul H. Chanchani & Anr* reported in (1998) 7 SCC 698.

12. Considering the aforesaid submissions of the parties and also considering the law laid down by the Hon'ble Supreme Court in the case of *Preeti Gupta Vs. State of Jharkhand (Supra)* and also in the case of *Kahkashan Kausar and Ors. Vs State of Bihar and Ors. (Supra)*, this application is allowed.

13. Accordingly, the order dated 12.09.2023 passed by the learned Judicial Magistrate, 1st Class, Bhagalpur



in connection with G.R. No. 587 of 2023 arising out of Mahila P.S. Case No. 03 of 2023 is hereby quashed with regard to petitioner nos. 3 (Najla Khan) and 4 (Nauheen Khan).

14. It is made clear that further proceedings of the Court below with regard to petitioner nos. 1 and 2 shall continue.

(Sandeep Kumar, J)

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