

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72745 of 2022

Arising Out of PS. Case No.-51 Year-2017 Thana- MAHILA P.S. District- Saharsa

1. PRASHANT KUMAR @ PRASHANT KUMAR YADAV Son of Late Shiv Nandan Pd. Yadav Resident of Village - Hatiagachhi, Patel Nagar, Ward No.- 31, Police Station and District - Saharsa
2. Parmanand Yadav @ Parmanand Prasad Yadav Son of Late Rajeshwari Prasad Yadav Resident of Village - Hatiagachhi, Patel Nagar, Ward No.- 31, Police Station and District - Saharsa
3. Jaimala Devi @ Jaya mala Devi Wife of Parmanand Yadav @ Parmanand Prasad Yadav Resident of Village - Hatiagachhi, Patel Nagar, Ward No.- 31, Police Station and District - Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar
2. Karuna Devi Daughter of Gajendra Prasad Yadav Resident of Village - Karouti, Purvi Tola, Post Office - Karouti Bazar, P.S.- Uda-Kishunganj, District - Madhepura

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Singh, Advocate
For the Opposite Party/s : Mr.Aditya Narayan Singh 1, APP
Mr.Alok Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 28-03-2024 This application has been filed for quashing the order dated 11.05.2022 passed by learned S.D.J.M., Saharsa in Mahila P.S. Case No. 51 of 2017 whereby the learned S.D.J.M. has taken cognizance of offences under Sections 323, 498A, 494, 504, 506 r/w Section 34 of the Indian Penal Code against petitioners and one co-accused namely Manoj Kumar Yadav.

2. Learned counsel for the petitioners submits that petitioner no. 1 is younger brother, petitioner no. 2 is brother-in-



law and petitioner no. 3 is married sister respectively of husband of the informant/opposite party no. 2. He further submits that petitioners have been falsely implicated in this case merely because they are close relatives of the husband of the informant. Crux of the allegation is against co-accused Manoj Kumar Yadav, who is husband of the informant/opposite party no. 2. He next submits that petitioners have nothing to do with the affairs of the informant/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. F.I.R. does not disclose any distinct role or contribution of these petitioners in the alleged occurrence and merely on the basis of general and omnibus allegation, the petitioners have been made accused in this case 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***.

3. On the other hand, learned A.P.P. for the State and learned counsel appearing on behalf of the informant/opposite party no. 2 vehemently oppose the arguments advanced on



behalf of the petitioners and submit that petitioners are named in the F.I.R. and they were instrumental in torturing the informant/opposite party no. 2, both mentally and physically. There is sufficient materials 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.

4. Heard the submissions advanced by learned counsels for the parties and perused the materials available on record. From bare perusal of the F.I.R., it appears that only omnibus allegations have been made by the informant.

5. 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 these petitioners, it would be unjust if the petitioners are forced to face trial.

6. In view of the aforesaid discussions, the order of cognizance dated 11.05.2022 passed by learned S.D.J.M., Saharsa in Mahila P.S. Case No. 51 of 2017, with respect to these petitioners, is hereby quashed.



7. Thus, this quashing petition is allowed.

(Prabhat Kumar Singh, J)

anay

U		T	
---	--	---	--

