

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1380 of 2023

Arising Out of PS. Case No.-9 Year-2021 Thana- BENIPATTI District- Madhubani

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1. URUJ ASLAM @ MD. OROOJ ASLAM Son of Md. Mokhtar Aslam R/v- Rampur, P.S.- Benipatti, District- Madhubani
 2. ALIYA SADAF @ CHANDRI PRAVEEN Wife of Md. Mokhtar Aslam R/v- Rampur, P.S.- Benipatti, District- Madhubani
 3. MD. MOSHARF HUSSAIN @ MUSHARRAF HUSSAIN Son of Md. Mokhtar Aslam R/v- Rampur, P.S.- Benipatti, District- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. AFRIN PRAVEEN Wife of Uruj Aslam R/v- Karhara Birdipur, P.S.- Benipatti, District- Madhubani

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gagan Deo Prasad , Advocate Mr. Vinod Kumar , Advocate Mr. Ravi Prakash, Advocate
For the Opposite Party/s :		Mr. Anant Kumar 1, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 18-03-2024 Heard learned counsel for the parties.

2. This application has been filed for quashing the order dated 20.10.2022 passed by learned Addl. Sessions Judge- IV, Madhubani arising out of Benipatti P . S. Case No. 09/2021 dated 29.01.2021 under section 498(A), 323 , 324, 308 , 354(B), 380 and 34 of the I. P .



C . and $\frac{3}{4}$ of Dowry Act.

3 . The prosecution case, in brief, is that on the basis of the *fardbeyan* of the informant, *Afrin Praveen*, who, being the wife of the accused *Uruj Aslam*, was married to him about a year ago. She was carrying a pregnancy of 7 months out of the said wedlock as she lived with her husband for 4-5 months. It is further alleged that on May 1, 2021, at about 6 p.m., these petitioners, along with other co-accused persons, came on four-wheelers and motorcycles for "*Bidai*." Thereafter, an altercation took place between the parties in which the husband of the informant took out a dagger from his pocket and gave blows to her consequently, due to which she got injured. In the meantime, petitioner no. 3, *Md. Mosharf*, gave a heavy fist to her stomach, due to which bleeding started.

4. Petitioner No. 1 is husband of the informant, petitioner No. 2 is *Nanad* of the informant and petitioner No. 3 is the *devar* of the informant.

5 . It is submitted on behalf of the petitioners



that no such occurrence as alleged has ever taken place. The injury report is collusive and has been procured only with a view to make out a case against these petitioners. As a matter of fact, the informant herself has left the house and is willingly living at her parents house. These petitioners never visited the house of the informant. He next submits that the allegation against these petitioners is vague and omnibus, and during investigation, none of the witnesses have supported the prosecution case. As such, no offense is made against the petitioners, and the present petition is fit to be quashed. In this regard, learned counsel for the petitioners has relied on an order of a co-ordinate Bench of this Court passed in ***Cr. Misc. No. 58344 of 2018*** dated 01.12.2022, (***Kishori Mahto and Ors. Vs. State of Bihar and ors***).

6. On the other hand, learned counsel for the State and opposite party No. 2 vehemently opposed the submissions made on behalf of the petitioners. While supporting the order of cognizance, learned counsel for the Opposite party No. 2 submits that the grounds,



raised by the petitioners, are the defence of the petitioners which can only be considered at the stage of the trial and on these grounds, order of cognizance cannot be quashed.

7. Heard learned counsel for the parties and perused the materials available on the record. As per FIR, there is serious allegation against these petitioners that they along with other co-accused persons assaulted the informant during her pregnancy and ousted her from matrimonial house. It is also evident from the plain reading of the FIR that these petitioners indulged in assault, as a result of which, the informant and his family members sustained injuries. Moreover, it is settled principle of law that neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the FIR warranted while examining prayer for quashing of order of cognizance. At this stage, the court could not have gone into the merits of the case or come to a conclusion. A defence plea cannot be entertained in a



quashing proceeding. Moreover, the reliance placed by learned counsel for the petitioners in the case of *Kishori Mahto (Supra)* is misplaced and the fact of the case is distinguishable. As such, I do not find any illegality or infirmity in the order of cognizance, and the petition is fit to be dismissed.

8 . Accordingly, this quashing application is dismissed.

(Prabhat Kumar Singh, J)

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