

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**CRIMINAL MISCELLANEOUS No.3265 of 2023**

Arising Out of PS. Case No.-1689 Year-2021 Thana- BEGUSARAI COMPLAINT CASE  
District- Begusarai

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1. Chandra Shekhar Prasad Malakar Son Of Late Brahmdeo Bhagat @ Brahmdeo Malakar Resident Of Mohalla- Chandpur Bela, P.S.- Jakkampur, District- Patna
  2. Raj Kumari @ Raj Kumari Devi Wife Of Chandra Shekhar Prasad Malakar Resident Of Mohalla- Chandpur Bela, P.S.- Jakkampur, District- Patna
- ... .. Petitioners

Versus

1. The State of Bihar
  2. Khushbu Kumari Wife of Rajeev Kumar, D/O Late Krishna Nandan Malakar Resident of Mali Tola Station Road Begusarai, P.S.- Begusarai Town, District- Begusarai
- ... .. Opposite Parties

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**Appearance :**

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| For the Petitioners :      | Mr.Ashok Kumar Mishra, Advocate            |
| For the Opposite Parties : | Mr.Dr. Ajeet Kumar, Addl Public Prosecutor |
|                            | Mr Randhir Kumar No.1, Advocate            |

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH**  
**ORAL ORDER**

3      04-03-2024                      This application has been filed for quashing of order dated 8.9.2022 passed in Complaint case no. 1689C of 2021 passed by the Judicial Magistrate, 1st Class, Begusarai, whereby and where under a *prima facie* case was made out under section 498A I.P.C. and summons have been issued against the petitioners.

2. Petitioner no.1 is father-in-law and petitioner no.2 is mother-in-law of opposite party no.2. Prosecution case in short is that opposite party no.2 was married to one Rajiv Kumar, who is son of these petitioners. Merely after 10 to 15 days of marriage, said Rajiv Kumar and these petitioners started demanding dowry and hurling abuses. In the meantime, she gave birth to a girl child. It is further alleged that these



petitioners and other family members continued subjecting her to cruelty and assault as a result of which she left her in-laws house and presently she is residing at her parents' house.

3. While denying the allegations, learned counsel for the petitioners submits that these petitioners are in-laws of opposite party no.2. It is next submitted that the complaint 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. 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**.

4. On the other hand, learned A.P.P. for the State and learned counsel appearing on behalf of the opposite party no. 2 have opposed the arguments advanced on behalf of the petitioners and submits that petitioners are named in the complaint and they were instrumental in torturing the opposite Party No. 2, both mentally and physically. There is sufficient material on record against them 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.

5. Having heard the submissions advanced by learned counsel appearing on behalf of the parties and on perusing the materials available on record, and the complaint, it appears that only omnibus allegations have been made by opposite party no.2.

6. 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 & Anr. Versus State of Jharkhand & Anr.** reported in (2010) 7 SCC 667 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.

7. In view of the foregoing discussions, order dated 8.9.2022 passed in Complaint case no. 1689C of 2021 by the Judicial Magistrate, 1st Class, Begusarai with respect to these petitioners, is hereby quashed.

8. This application is accordingly allowed.

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(Prabhat Kumar Singh, J)

