

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1524 of 2023

Arising Out of PS. Case No.- Year-0 Thana- District- West Champaran

1. DR. KAUSAR ALI @ KAUSAR ALI Son of Sheikh Noor Alam Permanent resident of village - Uttarwahni, P.O.- Pokhariya, Police Station - Chanpatia, District - West Champaran, At present residing at Shivam Nagar - I Near J.D.A. Park, Ramnagariya, Jagatpura, P.O.- Jagatpura, Police Station - Ramnagariya, District - Jaipur (Rajasthan)
2. Sheikh Noor Alam @ Sk. Noor Alam Son of Sheikh Hazrat Permanent resident of village - Uttarwahni, P.O.- Pokhariya, Police Station - Chanpatia, District - West Champaran, At present residing at Shivam Nagar - I Near J.D.A. Park, Ramnagariya, Jagatpura, P.O.- Jagatpura, Police Station - Ramnagariya, District - Jaipur (Rajasthan)
3. Akhatari Khatoon @ Akhatari Begum Wife of Sheikh Noor Alam Permanent resident of village - Uttarwahni, P.O.- Pokhariya, Police Station - Chanpatia, District - West Champaran, At present residing at Shivam Nagar - I Near J.D.A. Park, Ramnagariya, Jagatpura, P.O.- Jagatpura, Police Station - Ramnagariya, District - Jaipur (Rajasthan)
4. Shamse Alam Son of Sheikh Hazrat Resident of village - Uttarwahni, P.O.- Pokhariya, Police Station - Chanpatia, District - West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mehnaz Akhtar Wife of Dr. Kaushar Alam Daughter of A. Hai Akhtar, Resident of Dak Banglow Chowk Ujjain Tola, Bettiah, P.O.- Bettiah, Police Station - Bettiah Town, District - West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Brij Kishor Mishra, Advocate
For the Opposite Party/s :	Mr. Madhuri Lata, A.P.P.
For the Informant :	Mr. Afham Akhtar, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4. 11-03-2024 At the outset, learned counsel for the petitioners seeks permission to withdraw this petition so far as petitioner no. 1 (Dr. Kausar Ali @ Kausar Ali) is concerned.

2. Accordingly, this quashing petition stands dismissed as withdrawn so far as petitioner no. 1 is concerned.

3. Now, in respect of petitioner nos. 2 to 4, this petition has been filed for quashing the entire proceeding of



Domestic Violence Case No. 01 of 2021 filed by the opposite party no. 2 under Section 12 of the Protection of Women under Domestic Violence Act, 2004, which is pending before the court of learned Sub-Divisional Judicial Magistrate, Bettiah, West Champaran.

4. The case of the opposite party no. 2, in brief, is that on 14.11.2012, she was married with co-accused Dr. Kausar Ali and after the marriage, she went to her matrimonial home and started leading peaceful conjugal life. But, after some time, the husband and his family members started torturing her mentally and physically and also demanded Rs. 10 lacs, as dowry. It is further alleged that in the year 2017, when the complainant fell sick, her husband and other family members never gave proper treatment, rather fled away leaving her at home and thereafter, her parents got her treated. It is next alleged that the complainant is helpless lady and her in-laws members have deprived her from her ornaments and cash.

5. Learned counsel for the petitioners submits that even if entire facts, as mentioned in the complaint petition, are taken in its entirety, no *prima facie* case is made out against these petitioners. These petitioners have been made accused in this case merely because they are close family members of the



husband of the complainant/O.P.-2. He further submits that petitioner nos. 2 & 3 are father-in-law and mother-in-law of opposite party no. 2, who are living at their service place at Jammu & Kashmir, while petitioner no. 4 is uncle of husband of opposite party no. 2, who is living separately and has got no concern with the affairs of complainant and her husband. On perusal of the complaint, it is apparent that no distinct and separate allegations have been made against these petitioners. He next submits that date, time and place regarding the incident happened with her has been mentioned by her that when she was subjected to cruelty and harassment in regard to demand of dowry and as such, continuation of the proceeding against these petitioners would amount to an abuse of the process of the Court.

6. However, learned counsel for the opposite party no. 2 vehemently opposes the petition and submits that petitioners are instrumental in causing harassment and cruelty to the complainant. At the instance of these petitioners, the complainant was subjected to mental and physical torture and lastly, she was ousted from her matrimonial home. She was also deprived from her property right.

7. Having heard learned counsel for the parties and



perused the materials available on record. In absence of clear allegation against these petitioners, continuation of the proceeding would amount to an abuse of the process of the Court. In the entire complaint, no specific or distinct role has been attributed to these petitioners. The complaint petition does not disclose their direct involvement in the alleged occurrence.

8. Under the above facts and circumstances, the entire proceeding of Domestic Violence Case No. 01 of 2021 filed by the opposite party no. 2 under Section 12 of the Protection of Women under Domestic Violence Act, 2004, which is pending before the court of learned Sub-Divisional Judicial Magistrate, Bettiah, West Champaran, in respect of these petitioners i.e. petitioner nos. 2 to 4, is quashed.

9. This petition is, accordingly, disposed of.

(Prabhat Kumar Singh, J)

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