

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.270 of 2024

Arising Out of PS. Case No.-21 Year-2012 Thana- MAHILA THANA District- Begusarai

1. Raj Kumar Singh Son of Ram Nadan Prasad Singh, Resident of Village- Dhrubgama (Chahpatti), P.S.- Kalyanpur, District- Samastipur
2. Shyama Devi Wife of Raj Kumar Singh, Resident of Village- Dhrubgama (Chahpatti), P.S.- Kalyanpur, District- Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ranju Bharti Wife of Ranjeet Kumar Singh Resident Of Village- Makaspur, P.S.- Cheriya Bariyarpur, District- Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dharmesh Kumar, Advocate
For the State	:	Mr. Choubey Jawahar, APP
For the O.P. No.2	:	Mr. Sandip Kumar Gautam, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

7 30-04-2025 The petitioners are the father-in-law and mother-in-law respectively of the opposite party No.2, whose marriage was solemnized with one Ranjeet Kumar Singh, son of the present petitioners.

2. Upon a complaint made by the opposite party No.2, Begusarai Mahila P.S. Case No.21 of 2012 was registered on 06.06.2012 under Sections 498A, 323, 341 and 379 of the I.P.C. Police took up the case for investigation and on completion of investigation, charge-sheet has been submitted against the petitioners and the husband of the opposite party No.2 under Section 498A/34 of the I.P.C. read with Section 3/4 of the



Dowry Prohibition Act.

3. The learned Sub-Divisional Judicial Magistrate, Begusarai took cognizance of offence against the accused persons. The petitioners duly appeared before the Trial Court and file an application under Section 239 of the Cr.P.C. stating, inter-alia, that they are aged about 74 years and 72 years respectively. They are not involved in committing any offence as alleged by the opposite party No.2. They are living separately from their son, namely, Ranjeet Kumar Singh and his wife, opposite party No.2 herein. The case diary reflects absolutely contradictory statement regarding the involvement of the petitioners in the offence, while the informant and his near relations supported the prosecution case, the independent witnesses and the co-villagers of the petitioners did not support the case of the opposite party No.2, on the contrary they stated that the petitioners do not reside with their son and daughter-in-law and their ancestral properties were partitioned between petitioner No.1 and the husband of the opposite party No.2. The husband of the opposite party No.2 resides separately in a tenanted house at Samastipur. Therefore, allegation of committing offence by the petitioners are absolutely false.

4. The learned Sub-Divisional Judicial Magistrate,



Begusarai vide order dated 06.02.2024 rejected the application under Section 239 of the Cr.P.C. and fixed the case for framing charge against the accused persons including the petitioners.

5. Being aggrieved, the petitioners have challenged the impugned order dated 06.02.2024 on the ground of legality, validity and propriety.

6. I have heard the learned Counsels for the parties.

7. Section 239 of the Cr.P.C. states :-

“239. When accused shall be discharged.-
If, upon considering the police report and the documents sent with it under Section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.”

8. Plain reading of Section 239 of the Cr.P.C. empowers the learned Magistrate to discharge the accused, if upon considering the police report and document sent with the police report under section 173 of the Cr.P.C. and after giving the opportunity of being heard to the accused persons, the Magistrate finds the charge against the accused to be groundless.

9. It is asserted from the submission made by the



learned Advocate on behalf of the petitioner that Para-6 to 10 of the case diary contained statements of the witnesses on behalf of the informant, who are her near relatives.

10. On the contrary, paragraph No.20 to 22, 43 and 50 are the statements of the independent witnesses and villagers where the petitioners reside who did not support the prosecution case, therefore, the materials in case diary is suspect.

11. Now to buttress his argument, the learned Counsel for the petitioners refers to a decision of Hon'ble Supreme Court in *Vishnu Kumar Shukla & Anr. Vs. The State of Uttar Pradesh and Anr.*, reported in *2024(1) PLJR 92* wherein the Hon'ble Supreme Court while discussing the scope of Section 239 of the Cr.P.C. held that if a view gives rise to suspicion, as opposed to grave suspicion, the court concerned is empowered to discharge the accused.

12. The said judgment was delivered by the Hon'ble Apex Court in a case where the alleged offence in which charge-sheet was filed under Section 448, 454, 380 of the I.P.C.

13. This is a case of cruelty to a married women under Section 498A of the I.P.C. with further allegation of demand of dowry punishable under Section 3/4 of the Dowry Prohibition Act.



14. The learned Magistrate, while rejecting the application under Section 239 of the Cr.P.C. considered the statement of all the witnesses. I am in conformity with the learned Advocate for the petitioners that some of the witnesses who were examined by the I.O. supported the prosecution case and some did not.

15. The learned Magistrate on his own wisdom found that the materials in the case diary was sufficient for framing charge against the present petitioners. The purpose of framing charge is to make the accused persons aware about the offences, in which he/they is/are proposed to be tried.

16. There are plethora of judgments that evidence of the relative witnesses cannot be discarded on the threshold on the ground that they are interested witnesses. The law of evidence enjoyings a duty upon the Trial Court to scrutinized the evidence of the interested witnesses with more care and caution.

17. At the stage of consideration of charge, it is not the duty of the learned Magistrate to way the evidences in the case diary. It may so happen that the prosecution may not examined the witnesses, who supported the accused persons. In that case duty castes upon the defines to examined the said



witnesses, as witnesses on behalf of defense.

18. This Court at this stage cannot predict as to whether, the witnesses who supported the case of the accused persons would be examined by the defense or not in course of Trial.

19. The learned Magistrate found on careful perusal of the case diary that there are prima-facie materials against the petitioners and he rejected the application filed by the petitioners under Section 239 of the Cr.P.C. This Court does not find any illegality or material irregularity in the impugned order. This Court also does not find applicability of the ratio laid down by the Hon’ble Supreme Court in *Vishnu Kumar Shukla & Anr.* (supra).

20. For the reasons stated above, I do not find any merit in the instant criminal revision. Accordingly, the instant criminal revision is dismissed on contest, there shall be no order as to cost.

(Bibek Chaudhuri, J)

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