

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11931 of 2016

Arising Out of PS. Case No.-797 Year-2015 Thana- COMPLAINT CASE District- Jamui

1. Kaushaliya Devi, wife Of Shivnandan Prasad Yadav.
2. Santoshi Devi @ Santoshi Kumari, wife of Babloo Yadav D/O-Shivnandan Prasad Yadav.
3. Asha Devi @ Asha Kumari Wife Of Mukesh Yadav D/O-Shivnandan Prasad Yadav
4. Heera Devi @ Heera Kumari Daughter Of Shivnandan Prasad Yadav.
5. Meera Devi @ Meera Kumari Wife Of Heera Lalmuni D/O-Shivnandan Prasad Yadav.
6. Reeta Devi @ Reeta Kumari Wife Of Vishwabhusan Yadav D/O - Shivnandan Prasad Yadav.
7. Meena Devi @ Meena Kumari Wife Of Sadanand Yadav D/O-Shivnandan Prasad Yadav.
8. Rahul Kumar @ Pappu Yadav Son Of Sadanand Yadav
9. Soni Kumari Daughter Of Vishwabhusan Yadav.

All are resident of village - Bhantekthi, P.O.-Mithahi Bazar, P.S.- Madhepura, District - Madhepra

... .. Petitioners

Versus

1. The State of Bihar.
2. Kumari Swati Anupam, W/o - Raj Kumar, D/o - Subhash Chandra Roy, Resident of Naya Tola Bihari behind veterinary hospital, Police Station and District - Jamui.

... .. Opposite Parties

Appearance :

For the Petitioner : Mr. Sudhanshu Shekhar, APP
For the Opposite Party : Kr. Virendra Narayan, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 21-04-2025 Heard learned counsel for the petitioners and
learned APP for the State.

2. After some arguments, learned counsel for
the petitioners seeks permission to withdraw this application on



behalf of petitioner no.1 namely, Kaushaliya Devi.

3. Accordingly, this application is dismissed as withdrawn with regard to petitioner no.1, above named, with liberty to her to raise all the grounds at an appropriate stage i.e. at the stage of framing of charge.

4. This application has been filed for quashing the order dated 27.07.2015 passed by the learned S.D.J.M., Jamui, in Complaint Case No.797 of 2015, by which the learned Magistrate has taken cognizance against these petitioners for the offence under section 498-A of the Indian Penal Code and under section 3/4 of the Dowry Prohibition Act.

5. As per the complaint case, the complainant was married to co-accused Raj Kumar in the year 2010 according to Hindu Customs. After marriage, they went to Delhi where co-accused Raj Kumar was working. In the month of May, 2011 the complainant became pregnant. Thereafter, her in-laws started demanding dowry of Rs.10,00,000/- from the complainant and on account of non-fulfillment of said demand, the complainant was tortured by the accused persons. It has also been alleged that on 07.12.2011 all the accused persons entered into the room of the complainant with an intention to kill her. Thereafter, the father of the complainant brought her to her



parental house where she gave birth to a son. It has also been alleged that on 26.05.2015, the accused persons came to her parental house and told that since their demand is not fulfilled, they will perform the second marriage of her husband. Hence, the present complaint case has been filed by the complainant. Thereafter, the learned Magistrate, took cognizance against the accused persons for the offence under section 498-A of the Indian Penal Code and under section 3/4 of the Dowry Prohibition Act.

6. Learned counsel for the petitioners submits that the the petitioners are innocent and have falsely been implicated in the present case due to personal grudge. He further submits that on perusal of the F.I.R, it appears that the complainant has made series of allegations against all the accused persons but there is no specific allegation against the petitioners.

7. It has been submitted by learned counsel for the petitioners that petitioner nos.2 to 7 are the sisters-in-law, petitioner no.8 is the nephew (*Bhagina*) and petitioner no.9 is the niece (*Bhagini*) of the complainant and there is general and omnibus allegation against them.

8. I have considered the submissions of the



parties and perused the materials on record.

9. The Hon'ble Supreme Court in the cases of *Preeti Gupta vs. State of Jharkhand* reported as (2010) 7 SCC 667; *Kahkashan Kausar vs. State of Bihar* reported as (2022) 6 SCC 599 and *Achin Gupta vs. State of Haryana* reported as 2024 SCC OnLine SC 759 has deprecated the practice of falsely implicating the persons who are junior members, distant relatives and outsiders of the family of the husband of the complainant/informant. The present case is such a case where the petitioners are sisters-in-law, nephew (*Bhagina*) and niece (*Bhagini*) of the complainant and there is general and omnibus allegation against them. From reading of the complaint petition and the other materials available on record, it appears that the present complaint case has maliciously been instituted with an ulterior motive for wreaking vengeance on the petitioners due to private and personal grudge. Moreover, it appears that in the present case, the complaint has made all the family members of her husband as accused with an ulterior motive to spite them due to private and personal grudge. This tendency of making all the family members of the husband of the complainant/informant has been deprecated by the Hon'ble Supreme Court.

10. Considering the law laid down by the



Hon'ble Supreme Court in the aforesaid cases and also considering the facts that petitioners are sisters-in-law, nephew (*Bhagina*) and niece (*Bhagini*) of the complainant and there is general and omnibus allegation against them and the present complainant has maliciously been instituted with an ulterior motive for wreaking vengeance on the petitioners due to private and personal grudge, I am of the opinion that the continuation of proceeding against the petitioners would be an abuse of process of the Court.

11. In view of the aforesaid, this application is partly allowed. Accordingly, the complaint Case No.797 of 2015 and all consequential proceedings arising out of the aforesaid complaint case including the order taking cognizance dated 27.07.2015 passed by the learned Magistrate are hereby quashed with respect to petitioner nos.02 to 09. This application is dismissed as withdrawn with regard to petitioner no.1.

(Sandeep Kumar, J)

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