

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68277 of 2022

Arising Out of PS. Case No.-302 Year-2021 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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1. MOBARAK @ MD. MUBARAK S/o Abdul Sattar @ Md. Sattar R/o Village- Phulwaria, Kairibari, Tara Adda, P.S.- Phulwaria, Distt- Begusarai. At present Resident of - Gokultalla, Roshan Gali, New Basti, Lichi Bagan, P.S.- Nazirganj, Distt- Howrah(W.B.).
 2. Shabnam Parveen @ Shabnam Khatoon W/o Mobarak @ Md. Mubarak R/o Village- Phulwaria, Kairibari, Tara Adda, P.S.- Phulwaria, Distt- Begusarai. At present Resident of - Gokultalla, Roshan Gali, New Basti, Lichi Bagan, P.S.- Nazirganj, Distt- Howrah(W.B.).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nazni Khatoon W/o Md. Rizwan, D/o Md. Subhan Presently residing at Purani Bazar, Teghra, Ward no. 14, P.S.- Teghra, Distt- Begusarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Md. Fahimuddin
For the Opposite Party/s	:	Mr.Jagdhar Prasad
For the State	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 24-03-2025 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor appearing on behalf of the State.

2. This application has been filed for quashing the order dated 26.03.21/06.04.21 in complaint case No. 302(C)/2021 passed by J.M, 1st class, Begusarai whereby and whereunder the Magistrate held that there is sufficient evidence against the petitioners to issue summons against him for committing the alleged offences punishable under section 498 (A) of the Indian Penal Code and issued process against the petitioners.



3. The prosecution case in brief is as follows :-

(i) One Nazni Khatoon, wife of Md. Rizwan daughter of Md. Subhan, presently residing at Purani Bazar, Teghra, Ward No. 14, P.S. Teghra, District Begusarai is alleged to have filed a complaint case in the Court of Chief Judicial Magistrate, Begusarai, after enquiry cognizance has been taken against the petitioners and others for the offence under Section 498 (A) of Indian Penal Code.

(ii) It has been alleged by the complainant that the marriage of the complainant was solemnized with one Md. Rizwan on 09.05.2016 as per Muslim rites and rituals.

(iii) It has further been alleged that at the time of marriage, the complainant's parent gifted Rs. 51,000/- cash, one gold ring, one gold chain and also other gold and silver jewellery alongwith other articles to Md. Rizwan.

(iv) It is further alleged that after the marriage accused persons used to demand one lakh rupees, one T.V. and one fridge as a dowry and on non-fulfillment of the same, they used to harass the complainant mentally and physically.

(v) It is also alleged that the accused persons assaulted the complainant many times and ousted her from matrimonial house.



4. Learned counsel for the petitioners submits that the petitioners have been falsely implicated in this case only being the family members of the husband of the complainant. The petitioner no. 1 is the *bhaisur* and petitioner no. 2 is the *gotni* of the complainant.

5. Learned counsel for the petitioners further submits that, in fact, nothing has happened in the manner as alleged in the complaint and the petitioners have been falsely implicated in this case due to ulterior motive.

6. Learned counsel for the petitioners has also relied upon the judgment of Hon'ble Supreme Court passed in the case of ***Kahkashan Kausar @ Sonam Vs. State of Bihar reported in 2022 SCC OnLine SC 162.***

7. I have considered the submissions of the parties and also perused the materials available on record including the F.I.R.

8. It appears that the petitioner No. 1 (Mobarak) is the *Bhaisur* whereas petitioner No. 2 (Shabnam Parveen) is the *Gotni* of the complainant and there are general and omnibus allegation against them.

9. Considering the aforesaid facts of this case and also considering the law laid down by the Hon'ble Supreme Court in



the case of *Kahkashan Kausar Sonam and Ors (supra)*, this application is allowed.

10. Accordingly, the order dated 26.03.21/06.04.21 passed in in complaint case No. 302(C)/2021 passed by J.M, 1st Class, Begusarai is quashed with respect to the petitioners only and will continue against all the accused persons in the interest of justice.

(Sandeep Kumar, J)

Ranjeet/Saif/-

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