

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9419 of 2016

Arising Out of PS. Case No.-2135 Year-2008 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Jai Shankar Kumar @ Shankar Singh son of Bhuneshwar Prasad.
 2. Reeta Devi wife of Jay Shankar Kumar @ Shankar Singh
 3. Pankaj Kumar, son of Bhuneshwar Prasad All are resident of Village- Kormathu, Police Station- Belaganj, District- Gaya.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Rinki Devi @ Rinki Kumari wife of Rajeev Ranjan Kumar, resident of Village- Kormathu, Police Station- Belaganj, District- Gaya. at present resident of Village- Diha, Police Station- Belaganj, District- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kunwar Narayan Jamuar
For the Opposite Party/s : Mr.Dr. M.K.Gautam app

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 07-01-2026 Heard the parties.

2. This application has been filed on behalf of the petitioners for setting aside/quashing the order of cognizance dated 29.10.2009 by which the Sub-Divisional Judicial Magistrate, Patna took cognizance under Sections 498A of Indian Penal Code and under Section 4 of D.P. Act against the petitioners in connection with Complaint Case No.2135 of 2008.

3. As per the prosecution case, the petitioners along with other co-accused persons are said to have tortured and ousted the opposite party no.2 from her matrimonial home over



dowry demand.

4. At the very outset, learned counsel for the petitioners prays for and is permitted to withdraw application filed on behalf of petitioners no.1 and 2 with liberty to raise the grounds at an appropriate stage.

5. The application of the petitioners no. 1 and 2 is dismissed as withdrawn with the aforesaid liberty.

6. Learned counsel for the petitioner submits that so far as petitioners no. 3 is concerned, he is the brother of the father-in-law of the complainant and there is general and omnibus allegation against him.

7. Learned counsel for the petitioners next submits that the learned Magistrate has passed the impugned order of cognizance without application of mind and has taken cognizance against all the accused persons including the petitioners no. 3. He further submits that the petitioners no. 3 had never demanded dowry or assaulted the opposite party no.2.

8. Learned counsel for the State has opposed the application of the petitioner no. 3.

9. The Hon'ble Supreme Court in the case of ***Preeti Gupta & Anr. Vs. State of Jharkhand & Anr*** reported in (2010) 7 SCC 667, in the case of ***Kahkashan Kausar alias Sonam Vs.***



State of Bihar reported in (2022) 6 SCC 599 and in the case of *Achin Gupta Vs. State of Haryana & Anr* reported in 2024 SCC Online SC 759 has deprecated the practice of falsely implicating the relatives of the husband in a matrimonial dispute.

10. Considering the fact that the petitioners no. 3 and is the member of the family and he is not directly involved in the demand of dowry, this application is allowed with respect to the petitioners no.3 only.

11. Accordingly, the order of cognizance dated 29.10.2009 passed by the Sub-Divisional Judicial Magistrate, Patna in connection with Complaint Case No.2135 of 2008, is hereby quashed with regard to the petitioners no. 3 only.

12. The proceedings with regard to other co-accused persons shall continue.

(Sandeep Kumar, J)

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