

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12856 of 2016

Arising Out of PS. Case No.-26940 Year-2014 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Smt. Asha Rani Gupta W/o Shri Raj Kumar Gupta
 2. Sawan Kumar Gupta S/o Shri Raj Kumar Gupta Both resident of Mohalla- Shivpuri, C.P. Thakur Path, P.S.- Shashtrinagar, District- Patna.
 3. Raj Kumar Gupta, S/o Late Ayodhya Prasad Gupta Resident of Mohalla- Jakkanpur, Near Maharani Mandir, Near M. Lakhan Flat, P.S.- Jakkanpur, District- Patna.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Smt. Sarita Gupta W/o Shri Dhiraj Kumar & D/o Shri Awadh Kishore Gupta Resident of Mohalla- Biwiganj, Maidatoli, Danapur Cantt., P.S.- Danapur, District- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Madhu Prasun
For the Opposite Party/s : Mr. Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 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 10.09.2014 by which the Sub-Divisional Judicial Magistrate, Patna took cognizance under Sections 498A, 323, 420 of the Indian Penal Code and under Section 3/4 of D.P. Act against the petitioners in connection with Complaint Case No. 26940 © of 2014.

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 non-fulfillment of dowry.

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 3 with liberty to raise the grounds at an appropriate stage.

5. The application of the petitioners no. 1 and 3 is dismissed as withdrawn with the aforesaid liberty.

6. Learned counsel for the petitioner submits that so far as petitioners no. 2 is concerned, he is the brother-in-law (*Bahisur*) 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. 2. He further submits that the petitioners no. 2 had never demanded dowry or assaulted the opposite party no.2 and the allegations made against him are false.

8. Learned counsel for the State has opposed the prayer of the petitioner no. 2.



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 petitioner no. 2 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 petitioner no. 2 only.

11. Accordingly, the order of cognizance dated 10.09.2014 passed by the Sub-Divisional Judicial Magistrate, Patna in connection with Complaint Case No. 26940 © of 2014, is hereby quashed with regard to the petitioner no. 2 only.

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

(Sandeep Kumar, J)

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