

**(2021) 02 PAT CK 0218**

**In the Patna High Court**

**Case No : Criminal Miscellaneous No. 79135 Of 2019**

Shamim Khan And Ors

APPELLANT

Vs

State Of Bihar And Anr

RESPONDENT

**Date of Decision : 19-02-2021**

**Acts Referred:**

Indian Penal Code, 1860 — Section 34, 323, 324, 325, 341, 498A

Dowry Prohibition Act, 1961 — Section 3, 4

Code Of Criminal Procedure, 1973 — Section 438(2)

**Citation : (2021) 02 PAT CK 0218**

**Hon'ble Judges : Ahsanuddin Amanullah, J**

**Bench : Single Bench**

**Advocate : Ashok Kumar, Sucheta Yadav, Harendra Prasad**

**Final Decision : Disposed Of**

## **Judgement**

1. Heard Mr. Ashok Kumar, learned counsel for the petitioners; Ms. Sucheta Yadav, learned Additional Public Prosecutor (hereinafter referred to as

the "APP") for the State and Mr. Harendra Prasad, learned counsel for the informant.

2. The petitioners apprehend arrest in connection with Pachrukhi (Sarai OP) PS Case No. 202 of 2019 dated 08.08.2019, instituted under Sections

341, 323, 324, 325 and 498A/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act, 1961.

3. Learned counsel for the petitioners submitted that he may be permitted to withdraw the application on behalf petitioner no. 3 i.e. mother-in-law

(Noor Fatama). Accordingly, the application stands disposed off as withdrawn on behalf of petitioner no. 3, Noor Fatama.

4. The petitioner no. 1 is the younger brother; petitioner no. 2 sister; petitioner no. 3 mother-in-law and petitioner no. 4 cousin father-in-law, of the

informant.

5. The allegation against them as well as the husband of the informant was that they had tortured, assaulted and ousted the informant from the

matrimonial home demanding dowry of one

6. Learned counsel for the petitioners submitted that the husband was imprisoned and has now been released on bail and the petitioners have no role in the matrimonial dispute and further that marriage took place on 17.10.2016, whereas the FIR was lodged on 08.08.2019 and before that there was no

complain anywhere. It was submitted that the petitioners have no role whatsoever in the affairs of the informant and her husband. It was further

submitted that there has been no complaint in the past with regard to any misconduct of the petitioners and further that the petitioners no. 1, 2 and 4,

stand nothing to gain from the dowry demanded, as alleged, by the informant.

7. Learned APP submitted that there is allegation against all the petitioners. However, she could not controvert that the allegation is general and

omnibus against all accused.

8. Learned counsel for the informant submitted that she has been tortured. On a query of the Court as to why no complain was made for three years,

he submitted that in the FIR itself, it has been mentioned that there was Panchayati but the same was not accepted by the accused. On a further

query of the Court that if such Panchayati was not accepted why for three years, the informant has waited, learned counsel had no answer to the

same.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender

before the Court below within six weeks from today, the petitioner no. 1 namely Shamim Khan, petitioner no. 2 namely Nasima Khatoon and petitioner

no. 4 namely Md. Kashim, be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like

amount each to the satisfaction of the learned Sub Divisional Judicial Magistrate, Siwan in Pachrukhi (Sarai OP) PS Case No. 202 of 2019, subject to

the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of

the petitioners no. 1, 2 and 4 and (ii) that the petitioners no. 1, 2 and 4 shall cooperate in the case. Failure to cooperate shall lead to cancellation of

their bail bonds.

10. The application stands disposed off in the aforementioned terms.