

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.37863 of 2014

Arising Out of PS.Case No. -168 Year- 2014 Thana -ALAMGANJ District- PATNA

Braj Kishore Gupta @ Chotu Son of Late Shyam Babu Sao, Resident of
Nanmuhiya Mor, Mah Mandir Chowk, P.S. - Alamganj, District - Patna.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

Appearance :

For the Petitioner/s : Mr. Vikramdeo Singh

For the Opposite Party/s : Mr. Pradip Nr.Kumar, APP

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL ORDER

3 15-01-2015 The sister-in-law of the petitioner herein submitted a complaint alleging that the petitioner has been demanding Rs. One lakh from her, on some pretext. She has also stated that unable to bear the harassment, once she attempted to commit suicide. The Station House Officer of Alamganj, Patna City, Patna registered a case under Section 306 and 498A, IPC against the petitioner and arrested him on 23.7.2014.

The petitioner filed Bail Petition No. 454 of 2014 in the court of Additional Sessions Judge, Patna City. The application was rejected by the Sessions Judge on 20.8.2014. Hence this petition under Sections 439 and 440, Cr.P.C.

Heard Mr. Vikramdeo Singh, learned counsel for the petitioner and Mr. Pradeep Narayan Kumar, learned APP.

This Court is indeed surprised if not shocked on noticing the manner in which not only the Station House Officer but also the learned judge of the trial court dealt with the matter. Even if the contention of the complainant was to have been taken to be true, at the best it would have been a case of attempt for extortion of money. There was absolute no scope for invoking Section 498A, IPC at all.

Be that as it may, the occasion to invoke Section 306, IPC would arise if only a person committed suicide and the accused had instigated such suicide. When the allegation is that the complainant attempted suicide, the question of invoking that provision does not arise at all. In the instant case, no one died by committing suicide. Hence, there was clear non-application of mind and false implication.

In the course of investigation the Station House Officer did realize that invoking Section 306, IPC was not proper. However, he confounded the patent illegality by adding Section 511, IPC against the petitioner. It is too fundamental that Section 511, IPC can be invoked against a person who made an attempt to commit suicide but not against a third person. If at all anyone it should have been the complainant in this case who could have been shown as the accused of the offence punishable under Section 511, IPC. The Station House Officer was obviously ignorant or incompetent or was managed by someone; to file a false case against the petitioner. It is a fit case for the appointing authority to initiate disciplinary proceedings against him, may be for a minor punishment.

Equally surprising is the functioning of the trial court that received the charge-sheet, which contained allegations

under Section 306 and Section 511, IPC which are almost diametrically opposed to each other; against the petitioner and that too when the complainant was very much alive. It is on account of such lopsided enforcement of law, that innocent persons are falsely implicated while real culprits remain at large.

The Registrar is directed to call for a report from the concerned Judicial Officer who received the charge-sheet and take further steps in accordance with law.

The petition is allowed. The petitioner, namely, Braj Kishore Gupta @ Chotu shall be released on bail on furnishing bail bond of Rs.5000/- (Rs. Five thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate, Patna City, in connection with Alamganj P S Case No. 168 of 2014 corresponding to GR No.1669 of 2014.

(L. Narasimha Reddy,CJ)

mrl

A F R

U			
---	--	--	--