

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.298 of 2014

Arising Out of Complaint Case No. 751C Year 2013 Thana -null District- MUNGER

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Anupam Devi Wife Of Raj Kumar Yadav Resident Of Mangarh, P.S.- Dharhara,
District - Munger

.... Petitioner/s

Versus

1. The State Of Bihar
2. Parwati Devi Wife Of Nagendra Yadav
3. Kabita Kumari Daughter Of Yogendra Yadav
4. Rajiv Kumar Son Of Yogendra Yadav
5. Vijay Kumar Son Of Yogendra Yadav
All Resident Of Mangarh, P.S.- Dharhara, District - Munger At Present Residing
At Village Jagdishpur, P.S.- Dharhara, District -Munger

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kamal Kishore Jha, Adv.
For the State : Mr. Ranjit Ranjan, A.P.P.
For the Opposite Parties
No. 4 and 5 : Ms. Tanuja Mishra, Adv.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 07-09-2015

Heard learned counsel for the Petitioner and the State.

The Petitioner seeks Revision of the order dated
23.1.2014 passed by the Judicial Magistrate, 1st Class, Munger, in
Complaint Case No. 751C of 2013.

The case of the Complainant is that her daughter aged
about 14 years was allegedly given tea to drink by the Opposite Party
No. 2, who happens to be her step mother, and rest of the accused
persons, on account of which she suddenly fainted and was taken to

the Hospital where she died.

It appears that initially a First Information Report was instituted on such allegations but on investigation, the case was found false and, hence, Final Report was submitted. However, a protest petition was filed which was treated as a Complaint but the same was dismissed by the Magistrate without waiting for the viscera report with which procedure the Petitioner is aggrieved.

I am surprised at such argument because it is a well known principle of law that while dealing with the Complaint, the Magistrate is only to look into the Complaint statements under enquiry and no other document. Hence, he was perfectly justified in not calling for viscera report. Further, I find that the allegation is merely oral in nature and, hence, without any corroborative material, evidently, the Trial would be a nullity which should be avoided at all costs.

Hence, the application stands rejected.

(Anjana Prakash, J)

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