

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.497 of 2015

Arising Out of PS.Case No. -279 Year- 2012 Thana –Muzaffarpur Sadar District- MUZAFFARPUR

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1. Dharmsheela Devi Wife of Late Balram Sah
 2. Jitendra Gupta Son of Late Balram Sah
 3. Kundan Kumar Son of Late Balram Sah
 4. Chandan Kumar Son of Late Balram Sah
 5. Anita Devi Wife of Jitendra Gupta
- All residents of Village - Gobarsahi, Police Station - Sadar,
District - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the S.P. Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. B.K.Sinha, Sr. Adv.

For the Respondent/s : Mr. Ritesh Kumar, SC-33

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 24-09-2015

Heard learned counsel for the petitioners and learned
counsel for the State.

In the present application the petitioners seek quashing
of the FIR of Muzaffarpur Sadar P.S.Case No. 279 of 2012 registered
under Sections 304-B and 201 of the Indian Penal Code (for short
'IPC') and 3 and 4 of the Dowry Prohibition Act.

It is contended that the case instituted by the
prosecution is maliciously false. As per the statement of the informant
itself, marriage is said to have taken place on 19.05.2005 and the
occurrence is said to have taken place on 26.09.2012, i.e. much after
seven years. He submits that in that view of the matter the main
ingredient to constitute an offence under Section 304-B IPC is not

attracted. Hence, the FIR is patently bad in the eye of law.

In my view, the application is misconceived. The allegations made in the FIR do constitute a cognizable offence. Simply because the allegations made in the FIR may not attract one of the main ingredients of Section 304-B IPC, the same cannot be quashed. Section 304-B IPC deals with the offence relating to dowry death. There is an allegation in the FIR that sister of the informant was being subjected to cruelty for non-fulfillment of demand of Rs.1,00,000/- in cash and a motorcycle and ultimately the accused persons in conspiracy with each other killed her and in order to conceal evidence disposed of her body. True, the FIR discloses that the marriage of the victim was performed on 19.05.2005 and she was killed on 26.09.2012. However, if the investigation would establish that the death did not occur within seven years of marriage, the police may submit charge-sheet under Section 302 IPC. It is well settled that the police have a statutory right to investigate a cognizable offence. Offences under Sections 302 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961 are cognizable in nature.

In view of the discussion made hereinabove, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

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