

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20958 of 2014

Arising Out of PS.Case No. -455 Year- 2012 Thana -NAWADAH COMPLAINT CASE District-
NAWADA

- =====
1. Kamla Devi, wife of Late Devendra Prasad, resident of Mohalla Main Bazar Nawadah Road, Hisua, P.S. Hisua District Nawadah.
 2. Priti Kumari, D/o Late Devendra Prasad, resident of Mohalla Main Bazar Nawadah Road, Hisua, P.S. Hisua District Nawadah.
 3. Sandeep Kumar, son of late Devendra Prasad, resident of Mohalla Main Bazar Nawadah Road, Hisua, P.S. Hisua District Nawadah.
 4. Ajay Prasad alias Ajay Kumar, son of late Bachchu Prasad, Sarpanch, resident of village-Bareb P.S. Akbarpur District Nawadah.

.... Petitioner/s

Versus

1. The State of Bihar
2. Sangita Devi, wife of Late Shankar Kumar, D/o Ashok Kumar alias Jai Chand Prasad, at present of Mohalla-Panchu Main Bazar, Nawadah, Hisua Road, P.S. Hisua District Nawadah at present residing at Mohalla Mansoor Nagar, P.S. Soh Sarai, District Nalanda, Biharsharif

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar, Advocate

For the Opposite Party/s : APP

Mr. Bhawesh Kumar, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 21-05-2015

The Petitioners seek quashing of the order of non-discharge dated 28.01.2014 passed by the *Ad hoc* Additional Sessions Judge, IV, Nawadah, in Sessions Trial No.224 of 2013 arising out of Complaint Case No.455 of 2012.

The case of the Complainant is that she was married to Shankar Kumar on 11.05.2011 on which occasion large numbers of gifts were given to the in-laws. However, the in-laws used to torture

her for ends of dowry and on the date of occurrence they entered into her room and attempted to assault her. When her husband tried to save her, he was assaulted on account of which he died.

The present Complaint was instituted on 28.04.2012 even though the occurrence is said to have taken place on 29.01.2012.

It has been submitted on behalf of the Petitioners that when the Complaint was instituted, the Chief Judicial Magistrate, Nawada, called for a report in this regard upon which the ASI, Hisua Police Station, reported that the deceased was a drunkard and on the date of occurrence in drunken state he had fallen near tube well and hurt himself. Thereafter, he was taken to hospital but he died. Proper death certificate was also given by the relevant authorities. Under these circumstances, the Petitioners submit that they should not be put on trial.

On the other hand, counsel for the Complainant-Opposite Party No.2 submits that since she had been tortured after the death of her husband, they should be put on trial.

Having considered the report, in my understanding, trial of the Petitioners would be nullity in law as well as on facts.

Hence, the order of non-discharge dated 28.01.2014 passed by the *Ad hoc* Additional Sessions Judge, IV, Nawadah, in

Sessions Trial No.224 of 2013 arising out of Complaint Case
No.455 of 2012 is hereby set aside.

The application stands allowed.

(Anjana Prakash, J)

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