

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.6007 of 2015

Arising Out of PS.Case No. -207 Year- 2011 Thana -AHIAPUR District- MUZAFFARPUR

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1. Vivek Kumar son of Ram Nareh Prasad.
 2. Vikash Kumar son of Ram Naresh Prasad
 3. Ram Naresh Prasad, son of late Devnandan Prasad.
 4. Gaytri Devi, wife of Ram Naresh Prasad
 5. Jyoti Kumari wife of Vikash Kumar

All residents of Bairia Gandhi Nagar, P.S.- Ahiyapur, District- Muzaffarpur.

.... Petitioners

Versus

1. The State of Bihar
2. Dhananjay Kumar Srivastava, son of Sri Jayant Prasad Srivastava, resident of village- Puran Pakari, P.S.- Siwai Patti, District- Muzaffarpur.

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Rajendra Narayan, Sr. Advocate
Mr. Kumod Kumar Shrivastava, Advocate
For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-12-2015

By way of the present application under Section 482 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C.”), the petitioners seek quashing of the order dated 08.12.2014 passed by the learned 7th Additional Sessions Judge, Muzaffarpur in Sessions Trial No. 292 of 2014 by which the petitioners’ application under Section 227 Cr.P.C. seeking discharge from Ahiyapur P. S. Case No. 207 of 2011 has been rejected.



2. Mr. Rajendra Narayan, learned Senior Counsel for the petitioners has submitted that the instant case has been instituted with distorted facts just in order to humiliate and harass the petitioners. The sister of the informant was living with her husband, Vivek Kumar (petitioner no. 1) who was posted at Mohura, District- Baramulla (Jammu & Kashmir) in Indian Army. She went missing on 23rd May, 2011 and thereafter, a missing person report was also filed at Uri police station, Baramulla (Jammu & Kashmir). Later on, when her parents were informed about the incident, one Dhananjay Kumar Srivastava, brother of the missing wife of petitioner no. 1 filed a complaint case in the court of Chief Judicial Magistrate, Muzaffapur on 31.05.2011 levelling false allegation that his sister has been killed by the petitioners for non-fulfilment of demand of dowry. The aforesaid complaint dated 31.05.2011 was sent to the police under Section 156(3) Cr.P.C., pursuant to which the FIR was registered and investigation was taken up. Mr. Narayan has further contended that in absence of any cogent evidence against the petitioners and without verifying the real facts, the investigating officer has submitted charge-sheet against the petitioners, pursuant to which cognizance has been taken and the case has been committed to the Court of Sessions for trial. He has contended that there is no material on record to

proceed against the petitioners in the case but the trial Court mechanically rejected the application under Section 227 Cr.P.C.

3. On the other hand, learned counsel for the State has contended that the matter was duly investigated by the police and the witnesses examined during investigation under Section 161(3) Cr.P.C. have fully supported the allegation of subjecting the victim to cruelty for non-fulfillment of demand of dowry by the petitioners in her marital home and her subsequent killing by them. He has further contended that the Court below has found sufficient grounds to proceed with the case and thus, the application for discharge filed under Section 227 Cr.P.C. has rightly been rejected.

4. I have heard respective counsel for the parties and perused the record. I find that while passing the impugned order, the Court below has given clear, cogent and convincing reasons for rejecting the application filed under Section 227 Cr.P.C.. At the stage of framing of charge, meticulous examination of evidence is not to be conducted. At this stage, the Court has just to see and determine as to whether or not a case for trial has been made out by the prosecution. I find that the Court below has taken note of the statements of various witnesses recorded in different paragraphs of the case-diary in order to come to a conclusion that there are materials to proceed against the accused persons.

5. In that view of the matter, I do not find any merit in this case. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J.)

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