

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 21691 of 2014

Arising out of P. S. Case No. - 184 Year - 2012 Thana - RAHUI, District - NALANDA (BIHARSHARIFF)

Ashok Chudhary, S/o Baiju Choudhary, Resident of Vill. - Bhagan Bigha, P.S. Rahui (Bhagan Bigha), Distt. - Nalanda

.... Petitioner

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Hemant Kumar, Advocate

For the Opposite Party/s : Mr. Nand Kishore Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL ORDER

5 02-09-2015

Perused the report of the learned trial Court whereunder it

has been reported that the charge was framed on 08.02.2013 by the Ad hoc 1st Additional District and Sessions Judge, Nalanda and P.W.1 was examined on 22.07.2014 and P.W.2 on 01.08.2014. It has further been reported that as per the order of the learned District and Sessions Judge, Nalanda the case was transferred and received in the Court of 1st Additional District and Sessions Judge, Nalanda and after transfer of the case the cross-examination of P.W. 2 was completed on 02.09.2014. The examination-in-chief and cross-examination of P.W. 3 was done on 09.10.2014 and with regard to the other witnesses summon has been issued through the Superintendent of Police, Nalanda.

However, the learned In-Charge 5th Additional District and Sessions Judge, Nalanda, Biharsharif has not mentioned that when summon has been issued to the witnesses and whether the service report has been received or not. It has also not been mentioned that what

action has been taken for none service of report, if any.

Hence, it is apparent that the report of the learned In-Charge 5th Additional District and Sessions Judge, Nalanda, Bihar Sharif is not complete and not in consonance with the order passed by this Court vide order dated 19.08.2015.

The case is for the offence under Section 302/34 of the Indian Penal Code and the petitioner is the husband of the deceased and the wife has been done to death by strangulation in the matrimonial home and hence, the prayer for bail on behalf of the petitioner was earlier rejected vide order dated 24.10.2013 passed in Cr. Misc. No. 13767 of 2013 with observation that the trial be expedited for early disposal by taking coercive steps against the witnesses.

However, the trial Court has not taken any steps for ensuring production of the witnesses and there is no mention that the Superintendent of Police, Nalanda has ever taken any steps to ensure the attendance of the witnesses.

Hence, having regard to the aforesaid fact the Superintendent of Police, Nalanda is directed to ensure attendance of the witnesses on the date fixed so that all the witnesses may be exhausted within three months and the trial Court shall also proceed to issue process through the Superintendent of Police, Nalanda fixing the date for the evidence of the witnesses on a particular date. However, if the witnesses are not produced within three months and their evidence are not recorded and the case is not disposed of within six months for

any laches on the part of the prosecution then the petitioner shall be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Ad hoc Additional Sessions Judge, Nalanda, Bihar Sharif in connection with S. Tr. No. 33 of 2013 arising out of Rahui (Bhagan Bigha) P.S. Case No. 184 of 2012 and the Superintendent of Police, Nalanda shall ensure the attendance of the witnesses, failing which he will be held responsible.

With the aforesaid observation, this petition is disposed of.

Let this order be communicated to the Court concerned as well as the Superintendent of Police, Nalanda through FAX at the cost of the petitioner.

(Gopal Prasad, J.)

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