

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1254 of 2015

Arising Out of PS.Case No. -321 Year- 2008 Thana -BHABHUA District- BHABHUA (KAIMUR)

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1. Sattar Ansari, S/o Late Ali Hussain Ansari,
2. Nuraisha Khatoon @ Nuraisha Khatoon, W/o Sattar Ansari,
Both resident of village - Miria, P.S. - Sonhan, District- Kaimur.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Ajay Nand Sahay, Advocate

For the Opposite Party/s : Mr. Ganesh Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-09-2015

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

The petitioners have challenged the order dated
02.12.2014 passed by the learned 5th Additional Sessions Judge,
Kaimur at Bhabua in S. Tr. No. 4/14-3498/14 arising out of Bhabua
P.S. Case No. 321 of 2008 by which the trial court has rejected the
petition for discharge filed under Section 227 of the Code of
Criminal Procedure (hereinafter referred to as 'Cr. P.C.).

The informant of the case Mainuddin Ansari filed a
written report before the Officer-in-charge, G.R.P. Sasaram on
7.9.2008 alleging inter alia that his daughter, namely, Tammana
was married to the son of the petitioners about five years back and



she had been blessed with a daughter, namely, Taimun. It has been stated that immediately after the marriage, the accused persons named in the FIR including these two petitioners started subjecting Tammana to cruelty for non-fulfilment of demand of Rs. 50,000/- in cash and a motorcycle. Earlier, also they had burnt her for which a police case was registered on 26.08.2006 which was pending before the court. It has been further stated that about a week ago, he received a telephone call from his daughter that she was being tortured at her matrimonial home and ultimately, on 07.09.2008, he was informed by an unknown person that his daughter was done to death and her dead body was thrown on railway track.

On the basis of the statement made by the informant, Bhabua (Sonha) P.S. Case No.321 of 2008 dated 09.09.2008 was registered under Section 304-B, 201 and 120-B/34 of the Indian Penal Code against the petitioners and three others.

On completion of investigation, the police submitted charge sheet under Section 306 of the Code of Criminal Procedure pursuant to which the learned Magistrate took cognizance of the offence and committed the case to the court of sessions for trial.

At the stage of framing of charge, an application under Section 227 of the Code of Criminal Procedure was filed seeking discharge from the proceeding.

Learned counsel for the petitioners has submitted that



there is a general and omnibus allegation in the FIR against the petitioners and even in course of investigation no substantial evidence could be collected against the petitioners so as to put them on trial. He has submitted that apart from the family members of the deceased, no other person has come forward to support the prosecution case. He further contends that it would be evident from the evidence collected in course of investigation that the victim met with an accident on the fateful day. According to him, in any case it was not a case of homicidal death.

On the other hand, learned counsel for the State, after examining the case diary, has submitted that there is enough evidence in the case diary to indicate that the petitioner was being subjected to cruelty at the hands of the petitioners and others in her matrimonial home. The informant as also other witnesses examined during investigation have supported the allegations made in the FIR. He further contends that there is evidence to show that even prior to the present case a police case was registered against the accused persons of the present case for subjecting the victim to cruelty for non-fulfilment of demand of a motor-cycle and cash amounting to Rs. 50,000/-. He contends that there is evidence on record on the basis of which it can be said that the victim was left with no other option but to commit suicide.

At the stage of framing of charge it is not necessary for

the prosecution to establish beyond all reasonable doubts that the accusation which they are bringing against the accused persons is bound to be brought home against them. If upon consideration of the record of the case and the documents submitted therewith the court comes to a conclusion that the commission of offence is a probable consequence, charge has to be framed. It is certainly not a case in which there are no material to proceed against the petitioners. There are allegations of torture and assault in the FIR and the statements under Section 161 Cr. P.C. The victim herself had instituted a case against the accused persons when she was alive. The informant has alleged that soon before death she had complained regarding torture being committed upon her by the accused persons. Under such circumstance her death, which was certainly under other than natural circumstances, would attract ingredients of a cognizable offence.

In view of the discussion made hereinabove, I do not find any merit in this application. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J.)

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