

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 47098 of 2014

Arising Out of PS.Case No. -588 Year- 2012 Thana -KHAZANIHAT District- PURNIA

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Mani Bhushan Singh S/o Shri Gita Ram Singh R/o Village-Godhiyari, P.S.-
Bishanpur, District Darbhanga.

.... Petitioner/s

Versus

1. State of Bihar.
2. Gyandeo Prasad Singh S/o late Thakur Prasad Singh resident of village-Golma
P.S. Patharghar Dist. Saharsa at present resident at Adhiyapur-1, Hariom Nagar
Road No. 1, Plot No. 557, P.S. Adityapur Jamshedpur, Jharkhand.

.... Opposite Party/s

with

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Criminal Miscellaneous No. 47176 of 2014

Arising Out of PS.Case No. -588 Year- 2012 Thana -KHAZANIHAT District- PURNIA

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Indra Bhushan Singh S/o Shri Gita Ram Singh R/o village- Godhiyari, P.S.-
Bishanpur, District- Darbhanga

.... Petitioner/s

Versus

1. The State of Bihar
2. Gyandeo Prasad Singh S/o Late Thakur Prasad Singh resident of village- Golma,
P.S.- Patharghar, Dist. Saharsa, At Present residing at Ahhiyapur-1, Hariom Nagar
Road No. 1, Plot no. 557, Jamshedpur, Jharkhand

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No. 47098 of 2014)

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

(In Cr.Misc. No. 47176 of 2014)

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 20-08-2015

1. The petitioners seek quashing of the order dated
27.10.2014 passed by the Adhoc Additional Sessions Judge VIII,
Purnea in K.Hat P.S. Case No. 588 of 2012 by which he has refused
to discharge the petitioners.

2. The background facts of the case is that the petitioner

Mani Bhushan Singh and the deceased were married on 10.05.2009 where after they were living in Purnea where he was working.

3. On 15.11.2012 an unfortunate incident took place when the wife was found hanging inside her bed room. A station diary entry was made in this regard on the same day. The father of the deceased immediately arrived and instituted the present case under Section 304B IPC. He alleged that his daughter who had been married to petitioner Mani Bhushan Singh on 10.05.2009 and where after living with her husband at Purnea used to complain to him that the petitioners used to demand dowry and threaten her of dire consequences.

4. The case diary was called for from which it appears that in paragraph 3, it has been noted that a rumour was heard by the Officer-in-Charge that in the house of one Jagarnath Singh a lady had been found hanging from the hook of the fan. He then proceeded towards the place of occurrence and found that it was true and the father of the deceased was saying that his daughter has been killed by her in-laws for which a written report was also given to him.

5. In paragraph 5, the facts of inquest report was entered. Two persons signed on the inquest report namely, Amit Kumar Sah and Sadanand Singh.

6. In paragraph 6, the informant has been examined who stated that on the same day his son-in-law had given him an information that



the deceased had locked herself from inside and was not answering either knocks at the gate or repeated calls on the mobile phone. He then tried the number of Mani Bhushan Singh but he did not pick up the phone. A little later petitioner Mani Bhushan Singh told him that the door had been opened with the help of the landlord and the Ward Parshad. After breaking open the gate it was found that deceased had been found hanging from the fan.

7. In Paragraph 8, the brother of the deceased has been examined who stated that his sister had been married in the year 2009 where after she was living with her in-laws. The petitioner used to ask for a car and used to assault her which information was given by her to her father on phone. In paragraph 9, some other family have been examined who supported the allegations.

8. Importantly in paragraph 14, Jagarnath Singh, the land-lord has been examined. He stated that the deceased along with her husband had moved into his house and living there since November, 2011. Both the husband and wife had good relations but once in a while they used to quarrel. The husband used to say that the wife was suffering from mental ailments and was under treatment. No one else used to come in the house but once in a while the deceased used to go to her own maternal home. During “Dushara” she had come to the house along with her brother. On 15.11.2012, the husband had gone to the Office as usual. In the afternoon, suddenly he heard the door and

the grill being knocked at which he came down. The husband then told him that his wife was not picking the mobile on which he came and found the door locked from inside. A number of people then gathered and forced themselves inside the room and found the deceased hanging from the fan. He then informed the relatives. When the father of the deceased came he started levelling charges against the husband. At that time, on information, the police also came.

9. In paragraph 15, Amit Kumar Sah, who was also witness to the inquest report has been examined who stated that he was one of the persons who forced himself inside the house and found the deceased hanging from the fan.

10. It appears that at the place of occurrence itself the husband was arrested at 04. P.M and sent to judicial remand.

11. In paragraph 31, the postmortem examination report has been incorporated, according to which, the opinion of the Doctor was that death was on account of asphyxia caused by hanging.

12. In paragraphs 40 and 41, relatives of the deceased have been examined who support the case of the prosecution.

13. In paragraph 42, one Madan Kumar, who used to work along with the husband has been examined who stated that the husband used to be disturbed because the wife was suffering from mental ailment on account of which sometime fights also took place. Earlier also the wife had attempted to commit suicide but somehow

she could be saved on account of which he remained very tense.

14. In paragraph 43, also there appears to be some indication about the deceased suffering from mental ailment.

15. The petitioners have sought quashing of the impugned order on the ground that even conceding the allegations against them no offence under Section 304B IPC would be made out. The petitioner of Cr. 47098 of 2014 Mani Bhushan Singh, the husband submits that admittedly at the time of occurrence he was in the office and he himself came to the place of occurrence and found his wife hanging and the Doctor's opinion supports the fact that death was due to hanging. Vague allegations after the unfortunate incident have been levelled in regard to demand of dowry which prima facie appears unreliable. Moreover, if at all the intent of the petitioner was to kill his wife he would not have broken open the door nor informed his father-in-law, and would have fled away. Instead he remained at the place of occurrence even while his father-in-law came and started levelling charges and got him arrested i.e. Indra Bhushan Singh, elder brother of the husband of the deceased.

16. The petitioner of Cr. Misc. No. 47176 of 2014 submits that admittedly, he used to work in Delhi and had no role to play in the relationship between the husband and wife. All materials suggest that the deceased had died on account of her own action. There is no material which would suggest that the death had occurred on account

of none fulfillment of dowry soon before the death.

17. It is indeed true that the powers of Section 482 should be exercised sparingly but this Court is conscious that it is also duty-bound to ensure that no person is unnecessarily harassed for personal reasons.

18. In the present case I find that the allegations of demand of dowry are like post-scripts to the first information report only in order to ensure that in the facts of the case a criminal offence is made out. On the face of positive material with regard to the conduct of the husband, the deceased's mental condition and there being no indication as to abetment to suicide as also when the allegations in regard to demand of dowry are vague and therefore untenable, it would not be wise to put the petitioners on trial.

19. In such circumstances, the applications are allowed and the order dated 27.10.2014 passed by the Ad hoc Additional Sessions Judge VIII, Purnea in K.Hat P.S. Case No. 588 of 2012 is hereby set aside.

(Anjana Prakash, J)

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