

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 942 of 2014

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1. Amar Shukla @ Guddu Shukla, Son of Prakash Chandra Shukla, Resident of Bhairiya Rehika, Sirsa, Near Katihar Medical Collage, P.S. - Katihar, Distt. - Katihar
 2. Nagendra Choubey, Son of Haribansh Choubey, Resident of Sipahi Tola, Dollar Chowk, Gali No. 4, Madhubani, P.S. - Purnea, Distt. - Purnea
 3. Chandan Mandal, Son of Narendra Kumar, Resident of Navneet Nagar, Tola, Baigna, P.S. - Sadar, Distt. - Katihar

.... Petitioners

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Superintendent of Police, Katihar, Distt. - Katihar
4. The Officer-In-Charge, Town Police Station, Katihar, Distt. - Katihar
5. The Concerned Investigating Officer of this Case, Distt. - Katihar
6. Nitu Pandey, Wife of Late Gauri Shankar Pandey, Resident of Laxmipur, P.S. - Barari, Distt. - Katihar

.... Respondent/s

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Appearance :

For the Petitioners : Mr. Arun Kumar Mandal, Advocate

For the Respondents : Shri P. N. Shahi, A.A.G.-X

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

3 13-05-2015 Heard learned counsel for the petitioners and the learned counsel for the State.

This application has been filed for quashing Katihar Muffasil P.S. Case No. 84 of 2014 registered on 02.08.2014 for the offences under Sections 302, 201, and 120B and 34 of the Indian Penal Code.

The prosecution case, as alleged by the informant, is that her husband Gauri Shankar Pandey went to Katihar on the call of Chandan Mandal and he used to supply labourers with Amar Shukla @ Guudu Shukla. It is further alleged that on 25.01.2014 her



husband remained with Amar Shukla @ Guudu Shukla and Chandan Mandal and informant had a talk with her husband at about 8:30 P.M. and thereafter he was not contacted. On 26.01.2014 at about 6:30 A.M. Amar Shukla @ Guudu Shukla informed about the whereabouts of Gauri Shankar Pandey and then the daughter of the informant contacted on phone with Nagendra Choubey and he informed to come to Sirsa situated at Katihar Medical College and when they reached at Sirsa Medical College informant found her husband dead with various injuries on his dead body where Nagendra Choubey and others were present but they did not get the post-mortem done and loading the dead body sent it. She took the dead body of Laxmipur. Amar Shukla @ Guudu Shukla and Nagendra Choubey also followed the dead body and cremated it at Kadha Gola Ghat. Informant claimed that due to dispute about money Amar Shukla @ Guudu Shukla, Nagendra Choubey and Chandan Mandal killed her husband.

From a bare perusal of the First Information Report itself it is apparent that death of the husband of the informant is not a natural death and the dead body was even disposed of without conducting the post-mortem examination and it was also inquired that no treatment was done in Sirsa Medical College nor he was admitted, as is apparent from the record. However, the First Information Report has been lodged and the case is still at the stage

of investigation.

Learned counsel for the petitioner has annexed various documents showing that the informant has taken the dead body showing it a natural death. The informant has taken the death certificate and has annexed the death certificate of the deceased Gauri Shankar Pandey. He also submitted that the informant has taken compensation worth Rs.20,000/- showing that the husband died by natural death and there is delay in lodging the First Information Report and hence, it is submitted that the allegations made are false. It is further stated that there was no mark on the dead body and the petitioners have falsely been implicated.

However, it is well settled that the First Information Report cannot be quashed on the ground that the allegation made is false or true. If the allegation made makes out a cognizable offence then it is the bounden duty of the police to investigate the case and submit the report. This Court normally at the stage of investigation has no right to interfere with the investigation conducted by the police till the charge-sheet is submitted.

However, having regard to the allegation made in the First Information Report, that the husband of the informant was done to death and cognizable offence of murder has been made out, the police has got power to investigate the case and the investigation cannot be stopped at this stage and the First Information Report

cannot be quashed, merely, on the ground that the allegations are false or true. The petitioners challenged the First Information Report on the ground that the informant herself has withdrawn compensation and on the ground that the husband has died a natural death, however, it is for the police to investigate and the fact that the husband died a natural death is a defence of the petitioners which is no ground to quash the First Information Report and the petition is not required to be considered at this stage. First Information Report can be quashed on the ground that the allegation made does not make out an offence or the First Information Report has been lodged with mala fide or the allegations are inherently improbable or manifestly mala fide. However, no such ground has been taken that the allegation made does not make out an offence nor there is any mala fide for lodging a false case against the accused persons or the allegations are inherently improbable. Hence, no case has been made out to interfere with the investigation, I do not find any merit hence, the petition is dismissed.

(Gopal Prasad, J.)

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