

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26599 of 2015

Arising Out of PS.Case No. -42 Year- 2010 Thana -SAHAYAK NAGAR District- KATIHAR

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1. Monika Singh, Wife of Late Amit Kumar Singh and Daughter of Sri Parmanand Singh
 2. Manju Devi, Wife of Parmanand Singh
 3. Kanhaiya Kumar Singh @ Kanhaiya Singh Son of Parmanand Singh
 4. Parmanand Singh, Son of Ram Jatan Prasad Singh

All are Resident of Village- Andaur, P.S.- Mohiuddin Nagar, District- Samastipur.

.... Petitioners

Versus

1. The State of Bihar.
2. Anita Devi Wife of Sri Birendra Kumar Singh, Resident of Village- Ethari, P.S.- Supaul, District- Supaul. At present resident of Mohalla- New Colony Katihar, P.S.- Katihar, District- Katihar.

.... Opposite Parties.

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Appearance :

For the Petitioner/s : Mr. Dilip Kumar Roy, Adv.

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 24-09-2015

By the present application under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.'), the petitioners seek quashing the order dated 28.1.2015, passed by the learned Additional Sessions Judge, IV, Katihar in C. A. No. 141 of 2011, corresponding to Sessions Trial No. 2880 of 2014, by which the application under Section 227 Cr.P.C. for discharge from the case has been dismissed.



2. Initially, Katihar (Town) P. S. Case No. 42 of 2010 was registered against the petitioners on 7.2.2010 under Section 306/34 IPC on the basis of statement of one Amit Kumar, husband of the petitioner no. 1, namely, Monika Singh. In the *fardbeyan* recorded by the police in the emergency ward of RMCH, Katihar, it has been stated that his wife Monika Singh, father-in-law Parmanand Singh, mother-in-law Manju Devi and brother-in-law Kanhaiya Kumar Singh @ Kanhaiya Singh were consistently harassing him and subjecting him to mental cruelty. His wife refused to live with him in her marital home. The other relatives of his wife insisted that he should manage Rs.10,000/- per month and come to his *sasural* to live with his wife. He has stated that he was being repeatedly threatened of being implicated in dowry related cases and maintenance case. He has stated that whenever he phoned her up and requested to come to her marital home she used to tell him that she would not come there. She repeatedly told him that he should commit suicide. He further stated that being vexed and abetted by the accused persons he was left with no option, but to commit suicide and, as such, he took five tablets of celphos, a poisonous substance in order to finish his life. He has stated that when his condition started deteriorating, he disclosed this fact to his family members, who brought him to the hospital, where he was undergoing treatment.

3. While the case was still under investigation, the mother of the first informant, Amit Kumar, filed a protest petition alleging therein that the investigating agency was in collusion with the accused persons. Subsequently, a final report was submitted by the investigating officer of the case in the Court.

4. The learned Magistrate accepted the final report submitted by the police and directed that protest petition be separately registered as a Complaint Case.

5. In the Complaint Case, the complainant was examined on solemn affirmation under Section 200 Cr.P.C. and apart from the complainant, three other witnesses were also examined during inquiry conducted under Section 202 Cr.P.C. The complainant and her witnesses have fully supported the allegations made in the first information report. Accordingly, the learned Magistrate took cognizance of the offence under Section 306 IPC.

6. Let it be noted here that the first informant died during treatment after four days of the occurrence.

7. Since the offence under Section 306 IPC is exclusively triable by the Court of Sessions, the case was committed to the Sessions Court for trial.

8. At the stage of framing of charge, an application under Section 227 Cr.P.C. was filed on behalf of the petitioners seeking



discharge from the case. By a reasoned order dated 28.1.2015, the learned Additional Sessions Judge-IV, Katihar rejected the said application seeking discharge. Therefore, the present application under Section 482 Cr.P.C. has been filed before this Court assailing the order dated 28.1.2015.

9. Learned counsel for the petitioners submits that the petitioners have been implicated in a false case. The matter was duly investigated by the police and on completion of investigation the police found the accusation to be false. On the same set of allegation, the present complaint has been instituted. The witnesses examined in course of inquiry are all interested witnesses. He would submit that their evidence is of no value in the light of the police report submitted under Section 173(2) Cr.P.C.

10. Learned Additional Public Prosecutor for the State has contested the matter. He would submit that the FIR was based on dying declaration of the informant. Though the police submitted final report, the evidence collected during investigation of the police case would be of no consequence in the present Complaint. The Court could not have looked into the materials collected in course of investigation of the police case while deciding an application filed under Section 227 Cr.P.C. in connection with a Complaint Case. In a Complaint Case, at this stage the Court was required only to look into

the complaint and the evidence collected in the Complaint case.

11. I have heard respective counsel for the parties and perused the materials available on the record.

12. The trial Court has passed a reasoned order. The reasons assigned by the trial Court for rejecting the application under Section 227 Cr.P.C. are clear, cogent and convincing. I find substance in the arguments advanced by the learned Additional Public Prosecutor for the State that for deciding an application under Section 227 Cr.P.C. in a Complaint case the materials collected in course of investigation of an FIR would be of no consequence. At the stage of framing of charge, the Court is required to see as to whether upon consideration of record of the case and the documents submitted therewith and after hearing of submissions of the accused and the prosecution in this behalf, there is a ground for presuming that the accused has committed an offence. The sufficiency of ground is not required to be seen at this stage. It is well settled that meticulous analysis of evidence is not to be done by the Court at the stage of framing of charge. An accused can only be discharged from the proceedings of the case, if the Court after examining the record of the case comes to a conclusion that there is no sufficient ground for proceeding against him. In the present case, the trial Court has evaluated the material and documents on record and has found that

there is sufficient ground for proceeding against the accused petitioners. The finding of the trial Court is neither erroneous nor perverse.

13. In that view of the matter, I am of the opinion that there is no illegality in the impugned order passed by the court below.

14. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J.)

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