

THE HIGH COURT OF TRIPURA
AGARTALA

CRL.PETN. 39 OF 2012

1. Sri Narayan Mahishya Das,
2. Sri Tutu Mahishya Das,
3. Sri Pintu Mahishya Das,
4. Sri Badal Mahishya Das.

-All are sons of Sri Promode Mahishya Das
Of Santipur, P.S. Pecharthal,
District: - North Tripura.

..... **Petitioners.**

- V e r s u s -

1. The State of Tripura,
Represented by the Secretary of
Home Department,
Government of Tripura,
New Civil Secretariat,
Capital Complex, Agartala,
P.O. Kunjaban,
District-West Tripura.
2. Sri Phanibhushan Sarkar,
S/O. Late Thakurdhan Sarkar,
Resident of Madhya Nalkata,
P.S. Pecharthal,
District-North Tripura.

..... **Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the petitioners : Mr. D.C. Roy, Advocate.

For the respondent No.1 : Mr. R.C. Debnath, Addl. P.P.

For the respondent No.2 : Mr. H.K. Bhowmik, Advocate.

Date of hearing and
delivery of judgment
and order. : 03.08.2015.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

This petition has been filed by the petitioners praying for quashing of the charge framed against them under Section 306 of the Indian Penal Code (IPC) by the learned Assistant Sessions Judge, North Tripura, Dharmanagar.

2. The prosecution case, briefly stated, is that the victim had a love affair with one of the petitioners namely Badal Mahishya Das. It is further the case of the prosecution that under the false pretext that he would marry the victim, Badal Mahishya Das had sexual relations with her. The case of the informant is that on 17.03.2011 his young daughter aged 19 years was missing and he came to know that she had been kept in the house of the petitioners who are all brothers. He went to their house but there he was informed by the accused persons that his daughter had come there earlier but she had already left. He returned home but later came to know from one Shri Samir Bhowmik that his daughter had actually been concealed and kept in the house of the petitioners. Thereafter, at about 1.30 a.m. some local youth with the help of the police went to the house of the petitioners and the victim girl was recovered from there. She was handed over to the father and on the early morning of 18.03.2011 at about 3 a.m. she committed suicide by consuming poison.

3. It is urged by Mr. D.C. Roy, learned counsel for the petitioners, that even if somebody is at fault that is only with Badal Mahishya Das and nobody else and, therefore, no charge could

have been framed against the other petitioners. I am clearly of the view that at the stage of framing charge these niceties cannot be gone into. If the version of the informant is correct that he was misinformed by the accused persons that his daughter had already left the house and if the information is correct that later in the midnight his daughter was recovered at the instance of the police and some local youth then all the petitioners will have to explain something to the trial Court. Therefore, it is not a case where charge should not be framed.

4. In this view of the matter, I find no merit in the petition which is accordingly dismissed.

5. It is, however, made clear that this Court has not expressed any opinion on the merits of the case and the learned trial Court shall decide the case strictly on the basis of the evidence led before it totally uninfluenced by the dismissal of this petition.

6. The parties are directed to appear before the trial Court on 16.09.2015 and the learned trial Court shall ensure that now the trial is concluded as early as possible, and in any event not later than 31.5.2016.

7. The petition is disposed of accordingly.

Send down the lower court records forthwith.

CHIEF JUSTICE