

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2734 of 2016

Arising Out of PS.Case No. -54 Year- 2013 Thana -MAHILA P.S. District- VAISHALI(HAJIPUR)

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1. Indrajeet Chaudhary @ Indrajeet Kumar son of Ram Padarath Chaudhary
2. Usha Devi, Wife of Ram Padarath Chaudhary
3. Ram Padarath Chaudhary, son of Nand Lal Chaudhary, All resident of village- Bajitpur, P.S.- Vidyapati Nagar, District- Samastipur

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Narain Sinha

For the Opposite Party/s : Mr. Sakir Ahmad(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 15-07-2016 The present application has been filed for quashing the order dated 22.06.2015 passed by learned SDJM, Vaishali at Hajipur in Hajipur Mahila P.S. Case No. 54 of 2013 whereby process has been directed to be issued after cognizance being taken for the offences punishable under Section 498A of the IPC.

The prosecution case is that the sister of the informant was married with the petitioner no.1 on 14.07.2010 and ultimately she died on 05.06.2013, thereafter, the present FIR was registered on 02.09.2013 under Section 304B/34 of the IPC and Section 3/4 of the Dowry Prohibition Act with accusation of killing the sister of the informant within three

years of the marriage for non-fulfillment of the dowry demand.

It is submitted by learned counsel for the petitioners that after investigation, the petitioners were not sent up for trial and final report was submitted on 22.03.2014 but approximately after one year of submission of final report, vide order dated 22.06.2015 differing with the final report, the order of cognizance has been passed.

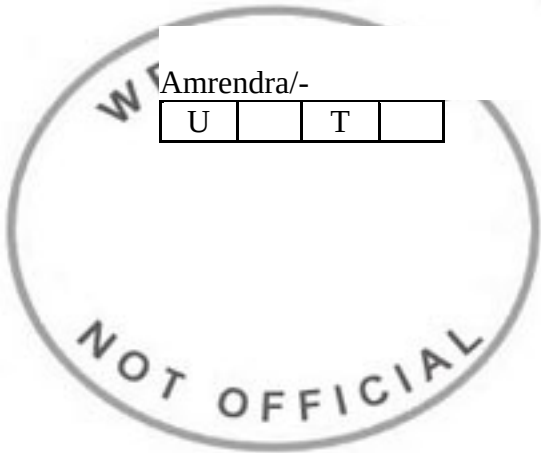
It is submitted by learned counsel for the petitioners that the victim was suffering from ailment and she was provided medical assistance also and since accusation under Section 304B IPC was not found true, the police submitted final report hence, the petitioners were not sent up for trial. Though, learned Magistrate has also not found prima facie case under Section 304B IPC but mechanically issued process after cognizance being taken under Section 498A IPC.

At the stage of taking cognizance, the learned Magistrate has only to see whether prima facie case is made out or not.

Hence, at this stage, this Court is not inclined to interfere.

Accordingly, the application is disposed of with liberty to the petitioners to raise all the contentions at the stage

of framing of charge.



(Dinesh Kumar Singh, J)