

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.14294 of 2016

Arising Out of PS.Case No. -386 Year- 2010 Thana -MADHUBANI TOWN District-
MADHUBANI

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1. CHUNCHUN MISHRA SON OF LATE GANGAI MISHRA
2. PANKAJ MISHRA@PANKAJ KR. MISHRA SON OF CHUNCHUN MISHRA.
BOTH ARE RESIDENT OF VILLAGE- DAMODARPUR PS
BENIPATTI, DISTRICT MADHUBANI.

.... PETITIONER/S

VERSUS

1. THE STATE OF BIHAR.
2. DHARMESHWAR MISHRA SON OF LATE KAMESHWAR MISHRA RESIDENT OF ARER DIH TOL, PS ARER (BENIPATTI) DISTRICT MADHUBANI.

.... OPPOSITE PARTY/S

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Appearance:

For the Petitioner/s : Mr. Anirban Kundu, Adv.

For the Opposite Party/s : Mr. H.A.Khan, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 01-08-2016

Heard learned counsel for the petitioners as well as learned

Additional Public Prosecutor.

After long duration of death of deceased, her father had filed complaint petition against the accused persons regarding commission of dowry death and further, on account of loss of mental equilibrium delay has been caused wherein after completing investigation, charge sheet has been submitted ultimately leading to present stage whereunder, by the order impugned prayer made on behalf of petitioner under Section 227 Cr.P.C. has been rejected.

It has been submitted on behalf of petitioner that deceased met with an accidental death on account of having the stove busted. Deceased was taken to Rajeshwar Hospital by the accused persons where she had undergone treatment. All costs were borne by the petitioners. At the later part the mother of deceased had also arrived and in her presence, husband had given his statement regarding the occurrence. After death, inquest report was prepared in presence of mother of deceased. Therefore, those things should

have been taken up by the learned lower court and in case those things would have been considered, there was no question of rejecting the prayer of the discharge.

Apart from this, it has also been submitted that the evidences whatever been collected during course of investigation if allowed to be un-rebutted would not lead in conviction of the accused. That being so, the material happens to be deficient one whereupon also the prayer would not have been rejected. Therefore, the submission is that the order impugned is fit to be set aside.

The learned Additional Public Prosecutor opposed the prayer.

The documents whatever been referred by the learned counsel for the petitioners would be considered during course of trial. For the present stage, the court is required to see only the materials suggesting sufficient one for the purpose of framing of charge which, the learned lower court had perceived in the order impugned. Accordingly, instant petition is found deficient one and is accordingly rejected.

(Aditya Kumar Trivedi, J.)

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