

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.617 of 2014

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Md. Jiaul Haque, Son of Late Jahirul Haque, resident of
Makhdumpur, P.S.- Muffasil, District- Katihar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Md. Sarfaraz, S/o Ruhul Amin.
3. Ruhul Amim, S/o Late Ishaque.
4. Bibi Nazo Khatoon, W/o Ruhul Amin.
5. Md. Tarique, S/o Ruhul Amin.
6. Anjum, S/o Ruhul Amin.
7. Md. Chhotu, S/o Ruhul Amin.

All resident of village- Chouka Fatehpur, P.O.- Fatehpur,
P.S.- Zero Mile Bhagalpur, District- Bhagalpur.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Sinha, Adv.

For the Respondent/s : Mr. Ramesh Chandra (APP)

Mr. Najmul Hodda, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

4 07-12-2016

Heard the parties.

The petitioner in the present criminal revision
application, preferred under Section 397 read with Section
401 of the Indian Penal Code, is aggrieved by an order,



dated 16.01.2014, passed in Complaint Case No. 2161 of 2013, whereby, the Chief Judicial Magistrate, Katihar, has dismissed the protest-cum-complaint petition filed by the petitioner.

Briefly narrated, the relevant facts of the case are that the petitioner had filed Katihar Muffasil P.S. Case No. 110 of 2009, disclosing commission of offence punishable under Sections 498A and 304B of the Indian Penal Code. The petitioner is the father of the deceased, who was married to opposite party No. 2 in the year 2006. The deceased died in the year 2009 in Delhi.

The police upon completion of investigation submitted final form disclosing that death of the petitioner's daughter had occurred because of falling down from the roof of the rental house at Noida (U.P.). The police, thus, found no involvement of the accused persons on the charge of demand of dowry or torture therefor nor in the death of the deceased. The said final report, submitted by the police, was accepted by the court below by an order, dated 22.09.2013. Thereafter, the petitioner filed a protest-cum-complaint petition in which the statement of the complainant, in course of enquiry, was recorded. Three (3) other witnesses were also examined at the stage of enquiry before the learned court below. It



emerged from the evidence of the witnesses, at the stage of enquiry, that none of them were witnesses to any occurrence of harassment or torture. The complainant himself was found to be silent as to cause of death of the deceased.

Considering these circumstances and other materials on record, learned court below rejected the complaint petition under Section 203 of the Code of Criminal Procedure.

Learned counsel for the petitioner has submitted that at the enquiry, witnesses had supported the case of the prosecution and, according to him, on the basis of their statements, offence under Sections 498A and 304B of the Indian Penal Code is made out. He has, accordingly, submitted, relying on a decision of this Court, in case of ***Madhu Lal Halwai @ Madhu Lal Vs. The State of Bihar and Ors.***, reported in ***2008 (4) PLJR 256***, that the Court ought to have taken cognizance of the offences and summoned the accused persons.

Learned counsel, appearing on behalf of the opposite parties, has opposed this application, justifying the impugned order.

I have perused the impugned order carefully. The case in hand is clearly distinguishable from the facts



involved in case of ***Madhu Lal Halwai*** (supra). In that case, no investigation by the police was done, whereas, in the present case, the police upon thorough enquiry had submitted final report, recording conclusion as to how the deceased had died. Further, in the present case, the enquiry witnesses, who deposed in support of the prosecution, were admittedly not witnesses to any harassment or torture on the deceased.

Considering these facts and the fact that the complainant himself was silent on the point of cause of death of the deceased, learned court below rightly dismissed the said complaint petition under Section 203 of the Code of Criminal Procedure. The said order, in my view, does not require any interference in a criminal revisional jurisdiction.

This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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