

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.24528 of 2015

Arising Out of PS.Case No. -123 Year- 2012 Thana -RASULPUR District- SARAN

=====

Chandrabhushan Singh S/o Late Parsuram Singh Resident of village - Najarpura,
P.S. Parhenalhi, Dist. Siwan.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

=====

Appearance :

For the Petitioner/s : Mr. Mukesh Kant, Advocate

For the Opposite Party/s : Mr. Madhuri Lata, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-01-2016

By the present application preferred under Section 482 of the Code of Criminal Procedure, 1973 (For Short “CrPC”), the petitioner seeks quashing of the order dated 30.05.2014 passed by the learned Judicial Magistrate, 1st Class, Saran at Chhapra in G.R. No. 4200/12/Reg-33126/14 arising out of Rasulpur P. S. Case No. 123 of 2012, whereby on receipt of a police report under Section 173 CrPC, cognizance of the offences punishable under Sections 120-B, 302 and 201 of the Indian Penal Code (for short “IPC”) has been taken against the petitioner and he has been summoned to face trial.

2. It has been contended by the learned counsel for the petitioner that the sister of the informant was married to the



petitioner in the year 1990. In 2009, an *ex parte* divorce decree was passed by the learned Principal Judge, Deoria, Uttar Pradesh on the application filed by the petitioner and since then, he had no concern with the deceased, sister of the informant. He, however, concedes that the deceased had filed a maintenance case before the Principal Judge, Family Court, Saran at Chapra and vide order dated 06.07.2010, the Family Court had directed the petitioner to pay ad interim maintenance of Rs.2000/- per month to the deceased and the same was being paid to her. It has further been contended that though the sister of the informant died in the village of the petitioner, but her death took place in the house of her sister, who has also been married to one Gorakhnath Singh in the same village and after 45 days of the death, the present case has been filed just in order to blackmail and harass the petitioner. It has also been contended that on the date of occurrence, the petitioner was at the place of his posting at Deoria and his involvement was found to be false by the police during investigation and as such, the police had rightly submitted a final report holding the case to be a mistake of fact.

3. *Per contra*, learned counsel for informant has submitted that there is specific allegation in the complaint that after the decree of divorce and after the order for payment of ad-interim



maintenance, the petitioner approached the deceased and took her to her marital home and she was killed by him on the very next day. The delay caused in filing the complaint has also been explained in the complaint petition and in course of investigation, the informant has fully supported the case of the prosecution. It has further been contended that the prayer for grant of anticipatory bail of the petitioner was also rejected by this Court vide order dated 03.11.2015 passed in Cr. Misc. No. 46001 of 2015, but he has not appeared before the court below till date. He has further contended that in the case-diary, apart from the informant, other brothers of the deceased, namely, Vishan Singh and Triguna Singh have also supported the case of the informant and in that view of the matter, the learned Magistrate has rightly differed with the police report and took cognizance of the offence punishable under Sections 120-B, 302 and 201 IPC.

4. I have heard learned respective counsels for the parties and perused the record, I find that though there is some delay in institution of the complaint, which was sent to the police under Section 156(3) CrPC, the cause of delay has been properly explained in the complaint. The allegations made in the FIR are quite serious. The informant and his brothers have supported the allegations made in the complaint. In that view of the matter, no

illegality can be found in the impugned order passed by the Court below.

5. Accordingly, the application, being devoid any merit, is hereby dismissed.

6. However, it would be open for the petitioner to raise all the points available to him at the stage of framing of charge.

(Ashwani Kumar Singh, J.)

Kanchan/-

U		T	
---	--	---	--