

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45079 of 2016

Arising Out of PS.Case No. -19 Year- 2016 Thana -MAHILA P.S. District- SEKHPURA

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1. Amlesh Kumar S/o Sri Ashok Kumar Singh R/o Vill- Bedauli, P.S. Sara
in the district of Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar

For the Opposite Party/s : Mr. Iftekhar Mahmood

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

3 28-10-2016 Heard learned counsels for the petitioner, informant and
the State.

The petitioner being husband of the sister of the
informant is languishing in custody since 24.8.2016 in a case
registered under Sections 498A, 494 and 307/34 of the Indian
Penal Code and sections 3 and 4 of Dowry Prohibition Act.

The prosecution case, as per the written report of
Nawlesh Kumar submitted before the Officer Incharge of Mahila
Police station, Sheikhpura on 15.4.2016, is to the effect that the
sister of the informant, namely, Soni Devi was married with the
petitioner but after marriage torture was inflicted for non
fulfillment for dowry demands of motorcycle, television and other
articles. It is alleged that the accused persons assaulted the sister

of the informant causing injury on head and thereafter reached the sister of the informant at the informant's house. It is further alleged that the petitioner performed second marriage.

It is submitted by the learned counsel for the petitioner that the petitioner admits his marriage with the sister of the informant but the informant was suffering from some illness for which she was being treated in the hospital. The informant was admitted in PMCH on 25.3.2016 and discharged on 30.3.2016. Later on, she was referred to AIIMS, New Delhi where she died. Statement to that effect has been made in paragraph 8 of the petition which reads as follows:

“That it is also pertinent to mention here that sister of the informant was suffering from acute “non communicating Hydrocephalous” and she was admitted in Patna Medical College Hospital, Patna on 25/3/16 and discharged on 30/3/16 latter on she was referred to AIIMS N. Delhi where she was died due to her illness.”

It is further submitted that the medical report and the post mortem report also suggest that the victim died due to illness. Statement to that effect has been made in paragraph 9 of the petition. On conclusion of investigation and considering the medical reports charge sheet was submitted only under section 494

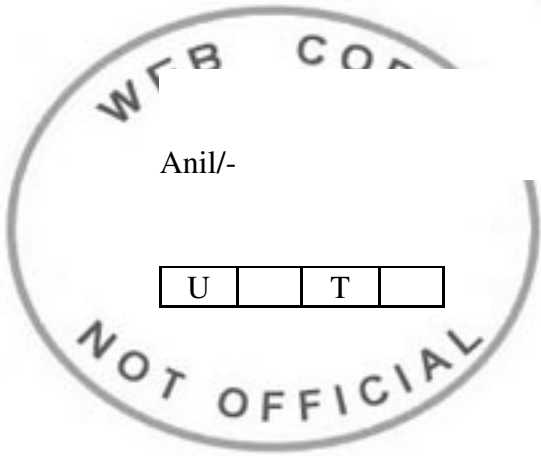


IPC. The final report (chargesheet) was submitted on 30.7.2016 though no order was passed on the final report when the prayer of the petitioner for bail was rejected on 5.9.2016 and the learned Chief Judicial Magistrate vide order dated 1.10.2016 differing with the final report took cognizance against the petitioner and others under sections 498A,494,307,304 and 302/34 IPC and sections 3 and 4 of Dowry Prohibition Act.

Learned counsel for the informant submits that the accused persons assaulted the victim and due to assault she died and now cognizance has been taken under sections 498A,494,307,304 and 302/34 IPC and sections 3 and 4 of Dowry Prohibition Act.

Considering the rival submission of the parties and keeping in view of the fact that on conclusion of investigation and after examining the medical documents the police came to the conclusion that only a case under section 494 IPC is made out though differing with the final report cognizance has been taken under sections 498A,494,307,304 and 302/34 IPC and sections 3 and 4 of Dowry Prohibition Act, let the above named petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Sheikhpura in connection with Sheikhpura Mahila

P.S. Case No. 19 of 2016.



Anil/-

(Dinesh Kumar Singh, J)