

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45152 of 2015

Arising Out of PS.Case No. -2192 Year- 2013 Thana -SIWAN COMPLAINT CASE District-
SIWAN

1. Lalsa Devi @ Lalsa, wife of Shri Ram Singh @ Shri Ram Bhagat
2. Shalma Khatoon @ Salma Khatoon wife of Ijhor Ahmad
Both are residents of Village- Babhanbara, P.S. Barharia, District- Siwan.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

With

Criminal Miscellaneous No.47266 of 2015

Arising Out of PS.Case No. -2192 Year- 2013 Thana -SIWAN COMPLAINT CASE District-
SIWAN

Mustakim Ansari, son of Late Nabi Rasool, resident of village-Babhanbara,
P.S.-Barharia, District- Siwan.

.... Petitioner

Versus

The State of Bihar & Anr.

.... Opposite Parties

Appearance :

(In both the cases)

- For the Petitioners : Mr. Ramadhar Shekhar, Advocate
For the State : Mr. Sanjay Kr.Pandey, A.P.P.
: Dr. Ajeet Kumar, A.P.P.
For the Informant : Mr. Ajay Kumar Pandey, Advocate

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

4 03-03-2016 Heard parties.

The petitioners apprehend their arrest in a case registered
for the offence punishable under Sections 302/34 of the Indian
Penal Code.

The F.I.R. was lodged by the informant, who happens to
be the wife of the petitioner Mustakim Ansari making allegation

against her husband and the petitioner Lalsa Devi as well as daughter-in-law Salma Khatoon to have taken her son on the roof of the house and set him on fire. Thereafter, they had taken him at a place which was not known to her.

It is contended on behalf of the petitioners that in fact the petitioner Mustakim, who happens to be the father of the deceased, had taken his son to the Sadar Hospital, Siwan, which would be evident from the materials available in the case diary, and not only that, he had recorded his statement regarding the accident which had taken place while roasting corn as fire accidentally broke out causing burn injuries to his deceased son. It is further stated that the statement of the injured was also recorded by the police in which he had supported the aforesaid statement. In the further statement of the informant also, it is stated that after burn injuries, Md. Mustakim went to some place and, thereafter, came back again with a vehicle in which he had taken the deceased to unknown destination, however, it is apparent from the record that he was taken to hospital. It is submitted that the police, after investigation, has submitted final report exonerating the petitioners which was accepted by the court concerned, however, the informant filed a protest petition which was converted into a complaint case in which after enquiry etc. cognizance has been



taken against the petitioners. It is urged that altogether a new story has been set up in the complaint case that Md. Mustakim had illicit relationship with the petitioner Salma Khatoon which was seen by the deceased, therefore, he was burnt to death by him. Now a question would arise that if such was the motive of the petitioner and that was known to the petitioner then why it was not described either in the FIR or in the further statement of the informant recorded by the police? Secondly, if the motive of the petitioner Md. Mustakim was to commit murder of his own son then why he had taken him to the hospital in the vehicle? It is also contended that it has also come during the course of investigation that relationship between Md. Mustakim and his wife (informant) was not good and, allegedly he used to beat his wife. Now a question would arise that what was the reason of making such allegation after such a long period in the protest petition for the first time or during the course of inquiry in the complaint case?

Learned counsel for the informant submits that in view of the illicit relationship, Md. Mustakim had killed his son, however, he has not been able to answer the aforesaid questions.

Having regard to the facts and circumstances of the case, let the petitioners, namely, Lalsa Devi @ Lalsa, Shalma Khatoon @ Salma Khatoon and Mustakim Ansari be released on

bail in the event of their arrest/surrender before the court below within a period of six weeks from today in connection with Complaint Case No.2192/2013 (Trial No.5954/15) arising out of Barharia P.S. Case No.281/2012, on furnishing bail bonds of Rs.10,000 (Ten Thousand Rupees) each with two sureties of the like amount each to the satisfaction of Judicial Magistrate-1st Class, Siwan subject to the conditions as laid down under sub-section (2) of Section 438 of the Code of Criminal Procedure.

However, it is made clear that, while conducting the criminal trial, the court concerned would proceed in accordance with law without being prejudiced by any observations made by this Court for the purpose of granting bail.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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