

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30553 of 2016

Arising Out of PS.Case No. -57 Year- 2014 Thana -SHYAMPUR BHATHA District- SHEOHAR

- =====
1. Shiv Shankar Rai, Son of Late Yadu Rai
 2. Mahesh Rai, Son of Late Yadu Rai.
 3. Harinandan Rai @ Harnandan Rai, Son of Late Yadu Rai
 4. Shail Devi, Wife of Shiv Shankar Rai
 5. Ram Swarth Rai @ Sogarath Rai, Son of Late Yadu Rai.
 6. Dharmendra Rai @ Dhamendra Rai, Son of Shiv Shankar Rai
- All Resident of Village- Phulkahan, P.S.- Shyampur Bhatta, District- Sheohar.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance:

For the Petitioners : Mr. Ashhar Mustafa, Advocate
For the Informant : Mr. Sanjay Kumar @ S.K., Advocate
For the State : Mr. P. N. Pandit (APP)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

8 18-11-2016 Heard learned counsel for the petitioners and learned counsel for the informant as well as learned counsel appearing on behalf of the State.

The petitioners are apprehending their arrest in connection with Shyampur Bhatha P.S. Case No.57 of 2014 registered for the offences punishable under Sections 304B and 201/34 of the Indian Penal Code.

Case diary was called for, which has since been received.

Learned counsel for the petitioners submits that the



petitioners have been falsely implicated in the present case as prior to the occurrence there was no allegation of any dowry demand made by the present petitioners. Moreover, the victim lady was having a full term pregnancy and was being treated at the Sadar Hospital, Sheohar by the doctors, where after Ultra Sound report was given indicating full term pregnancy (37 weeks live foetus). She was also suffering from severe Anemia, as such, the patient having been admitted at Sadar Hospital, Sheohar on 18.08.2014, was referred to S.K.M.C.H., Muzaffarpur for further treatment. During the course of movement from Sadar Hospital, Sheohar to S.K.M.C.H., Muzaffarpur, the victim lady died and, as such, the petitioners cannot be held liable and prosecuted for the offences of physical torture leading to the death as has been indicated in the F.I.R.

Learned counsel for the informant, however, submits that the victim lady died due to the persistent demand of dowry from her and after her death, no information was sent to her parents through petitioners regarding her death and her body was hurriedly cremated.

Learned counsel appearing on behalf of the State, after perusal of the case diary submits that there is no material on record to indicate that there was any evidence of dowry demand

and admittedly the victim lady died at the time of child birth or rather before she reached the S.K.M.C.H., Muzaffarpur. Such facts stand corroborated by the materials available in the case diary.

Considering the facts and circumstances of the case and the nature of allegations made and the material which has surfaced in the case diary, the present case appears to be one of misconceived implication, as such, let the petitioners above named, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sheohar in connection with Shyampur Bhatha P.S. Case No. 57 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Anjana Mishra, J.)

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