

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41221 of 2016

Arising Out of PS.Case No. -86 Year- 2016 Thana -PIPRAKOTHI District-
EASTCHAMPARAN(MOTIHARI)

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1. Pramila Devi, W/o- Brijmohan Puri,
2. Brijmohan Puri, S/o- Late Basudeo Puri,
Both residents of Kishunpur Jivdhara, P.O.- Jivdhara, P.S.- Piprakothi,
District- East Champaran, Motihari.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Santosh Kumar Giri, S/o- Late Sunil Giri, Resident of Village- Balua
Vrita, P.S. Ramgarwa, District- East Champaran, Motihari.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vikas Ratan Bharti

For the Opposite Party/s : Mr. Md. Sufiyan
Mr. Anil Kumar

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 16-11-2016 Heard Sri Y.V. Giri, learned senior counsel assisted by

Sri Vikash Ratan Bharti, learned counsel for the petitioners, Mr.

Md. Sufiyan, learned Additional Public Prosecutor as well as Sri

Anil Kumar, learned counsel who has appeared on behalf of the

informant.

Petitioners are mother -in -law and father -in -law of the
deceased. They are apprehending their arrest in Piprakothi P.S.
Case No. 86 of 2016 registered for the offence under section
498A , 304(B) and 120B of the Indian Penal Code and Section 3
and 4 of the Dowry Prohibition Act and have prayed for grant of
anticipatory bail.

In this case earlier case diary was summoned and carbon copy of the case diary has been received.

Short fact of the case is that the informant had given a written report to the Officer -In -Charge, Piprakothi Police Station , East Champaran, wherein he had disclosed that her sister was got married with the son of the petitioners. With the F.I.R. the informant has brought on record certain copy of e-mails to substantiate that before marriage huge dowry amount was got transmitted to the account of petitioner no. 2 /father -in- law of the victim. It was alleged that sister of the informant was done to death by setting her ablaze. The informant has disclosed that he was at Delhi where he got information, then he instructed his elder sister to visit the place; his elder sister went to the place of occurrence. Thereafter, the victim was carried to hospital and finally she was shifted to Safdarganj hospital , where she died . The death occurred within a very short period from the date of occurrence. After registering F.I.R. the Police started investigation. On perusal of the case diary it appears that the Investigating Officer during initial investigation recorded statement of witnesses who supported the allegation. Subsequently, keeping in view the seriousness of the matter the Superintendent of Police decided to get the case supervised by the



S.D.P.O. and thereafter the S.D.P.O. has given his report with certain directions to the Investigating Officer, which has been incorporated in paragraph 35 of the case diary. It appears that the story of prosecution was given a U -turn . Virtually in the supervision note it appears that the Supervisory Authority desired to exonerate all the accused persons. Only thereafter statement of such witnesses were shown to be recorded who had substantiated the supervision note . It is further evident that after registering F.I.R. and knowing well that it was a case of death due to burning, though Police visited the place of occurrence, on perusal of the case diary it is evident that even place of occurrence was not properly inspected on the plea that there was a lock. If in a case of dowry death and that too by burning this is the attitude of the Investigating Agency then certainly inference can be drawn that investigation is not going in its right perspective.

Sri Giri , learned Senior Counsel , while pressing the present anticipatory bail petition submits that belatedly lodging of F.I.R. creates serious doubt on the prosecution case. He submits that it is true that sister of the informant had received burn injury but it was self inflicted injury and after she got burning the petitioner no. 1 herself tried to save her and in that event she had received serious burn injury and she was hospitalized in the same



hospital. He further submits that during investigation this fact has come that three days prior to the occurrence the father-in-law/petitioner no. 2 had gone to Haldwani to see his ailing family member. He submits that witnesses during investigation has corroborated the fact that petitioner no. 1 had tried to save the victim and petitioner no. 2 at the time of occurrence was far away. He further submits that witnesses have said that the deceased was always suspecting her husband as if he was having illicit relation with other lady and on account of quarrel she had committed suicide.

Learned Addl. P.P. and learned counsel for the informant have opposed the prayer.

Besides hearing I have perused the material available on record including case diary. After examining case diary the Court is primarily satisfied that though there was specific accusation in the F.I.R. the investigation has not been conducted in its right perspective. The place of occurrence has not even been verified by the Investigating Officer. During initial investigation witnesses have supported the prosecution case and suddenly case has been given a U-turn by the opinion of the Supervisory Authority i.e. S.D.P.O. I have perused the opinion of the Supervisory Authority which has been referred in paragraph 35 of



the case diary. After the Supervisory Authority has given U -turn to the prosecution case, certain witnesses were got examined to corroborate the facts disclosed in the supervision note, which creates serious doubt in the mind of this Court. The Court is of the opinion that in such circumstances where in the F.I.R. there is specific allegation and during initial investigation witnesses have supported the prosecution case regarding commission of offence under Section 304(B) of the Indian Penal Code, there is no reason to extend the privilege of anticipatory bail. Accordingly the prayer for grant of anticipatory bail in respect of both petitioners is rejected .

This case was earlier taken up on 10.11.2016. On the said date after examining the case diary the Court had opined to direct for conducting independent and impartial investigation. Accordingly on last date orally learned counsel for the informant as well as Additional Public Prosecutor were requested to inform the C.B.I. Counsel Sri Bipin Kumar Sinha to appear on the next date. Thereafter, Sri Sinha has appeared. After deep examination of case diary the Court is of the opinion that investigation in the present case is not proceeding to unveil the truth. It appears that effort has been taken to suppress the fact which is needed to be deeply investigated by an independent investigating agency. Since

it is a case of dowry death it can well be investigated by the Central Bureau of Investigation. Accordingly the Central Bureau of Investigation through its Superintendent of Police , Patna is hereby directed to conduct further investigation in Piprakothi P.S. Case No. 86 of 2016 for its logical end. It goes without saying that the C.B.I. may not be guided by any observation made by this Court in respect of merit of the case. In any event , the Court is of the opinion that once a matter is entrusted to the C.B.I. for investigation C.B.I. conducts investigation independently in a fair manner.

The Registrar General of the Patna High Court is required to provide authenticated copy of the brief along with carbon copy of the case diary which is on record to C.B.I. as and when approached.

The State through Director General of Police, Bihar is directed to ensure full assistance to the C.B.I. in conducting fair and impartial investigation.

Let a copy of this order be handed over to Sri Bipin Kumar Sinha, learned standing counsel, C.B.I. forthwith.

(Rakesh Kumar, J)

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