

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35 of 2016

Arising Out of PS.Case No. -407 Year- 2015 Thana -AURANGABAD TOWN District-
AURANGABAD

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1. MANJEET KR. MISHRA @ MANJEET MISHRA Son of Nand Kishor Mishra Resident of Village- Gandhi Nagar, P.s town Aurangabad,District Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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with

Criminal Miscellaneous No.57829 of 2015

Arising Out of PS.Case No. -407 Year- 2015 Thana -AURANGABAD TOWN District-
AURANGABAD

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1. Nand Kishor Mishra son of Late Suryanath Mishra
2. Janak Raj Devi W/o Nand Kishore Mishra Both residents of Mohalla - Ward No. - 27, Gandhi Nagar, P.S. - Town, Aurangabad, Dist. - Aurangabad (Bihar).

.... Petitioners

Versus

1. The State of Bihar.

.... Opposite Party

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Appearance :

(In Cr.Misc. No.35 of 2016)

For the Petitioner/s : Mr. Brij Bihari Tiwary

For the Opposite Party/s : Mr. Khurshid Anwar (App)

(In Cr.Misc. No.57829 of 2015)

For the Petitioners : Mr. Brij Bihari Tiwary

For the Opposite Party/s : Mr. Binod Kr. 2(App)

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

4 18-02-2016 As both the applications arise out of the same P.S. case, they have been heard together and are being disposed of by this common order.

Heard learned counsel for the petitioners, the State

and the informant.

The petitioners apprehend their arrest in connection with Aurangabad Town P.S. Case No. 407 of 2015 registered for offences punishable under Sections 498(A), 304(B)/34 of the Indian Penal Code and 3/4 of Dowry Prohibition Act.

Petitioner of Criminal Miscellaneous No. 35 of 2016 is the husband of the deceased whereas petitioner no.1 is of Criminal Miscellaneous No. 57829 of 2015 is father-in-law and petitioner no.2 is mother-in-law of the deceased. F.I.R has been lodged by the father of the deceased. As per allegation set out in the first information report, the marriage between the petitioner Manjeet Mishra and the deceased Ruby Kumari was solemnized on 09.06.2014 and second marriage (Gauna) was performed on 03.12.2014. However, thereafter the family of in-laws started demand of cash and kind and they were also torturing the deceased for that. For the same purpose almost entire family has been made accused. It is further stated that in view of such torture, the daughter of the informant became seriously ill and she was pregnant also but was not being imparted medical treatment properly and on the pretext of medical treatment, the in-laws were taking her to Gaya and in the meantime, at Sherghati itself she gave birth a male child, who is still alive. However, thereafter

condition of the deceased deteriorated and on 27.09.2015 about 3.00 A.M she died. It is further stated that the informant came to know regarding the death from some persons, and, thereafter, reached there. He was somehow pacified by the accused persons and, thereafter, body was cremated.

Learned counsel appearing for the petitioners submits that even from the plain reading of the First Information Report it would appear that the death was not due to not any torture or anything done by the petitioners' side rather, admittedly, even according to the first information report, the victim was being taken to Gaya for better treatment and in between, at Sherghati, she gave birth to a male child who is still alive and, thereafter, her condition deteriorated and she died. It is contended that all the story of torture is merely concoction and it is not even disclosed in the first information report as to how much cash and what type of kind was demanded by them. Allegation is general, vague and omnibus.

It is further submitted that in paragraph-13 of the case diary, the statement of one Rani Devi, sister-in-law of the deceased has been recorded. She has given a graphic account of the event and has disclosed that the brother of the deceased Manoj Pandey had visited about four days back of the matrimonial house



of the deceased and on 27.09.2015 the deceased was going to her parents' place at Jamshedpur along with her brother and husband. They started their journey at about 7.00 A.M in the morning, however when they reached Sherghati, labor pain started and she had to be admitted in the clinic of Dr. Kanika Pandey where she gave birth to a male child, thereafter, her condition deteriorated and she died. In paragraph-36 the doctor has also been examined who has also given graphic account of the event. It appears therefrom that the brother and the husband of the deceased were accompanying her and in her clinic, the deceased gave birth to a male child. She was treated to the best of her ability but later on condition of the deceased deteriorated and she was referred to Gaya. It is stated that, thereafter, in the way even before reaching Gaya, she died.

Now the question would arise if the brother of the deceased was with her and she was all along being treated, how could such type of allegation could be made in the first information report? Perhaps this was the reason which had prompted the police to trace mobile location and tower location of Mobile Phone No. 9304344561 of the brother of the deceased. In paragraph-41 of the case diary, it has been stated on the basis of the tower location that the brother was at Aurangabad residence of

the petitioners. Not only that it, thereafter, on 27th September his tower location was found at Sherghati also and ultimately it terminated at Jamshedpur where the informant's family resides.

It is contended that in above view of the matter, it is clear case of false implication of the petitioners inasmuch as there was every attempt to got her treated and in fact at the instigation of the informant's side, she was being taken to Jamshedpur during which she gave birth to a male child at Sherghati in the clinic of Dr. Kanika Pandey, who has also supported the aforesaid fact.

Thus, it is urged that the entire story of demand of money and other articles were merely a concoction as some how after cremation of the dead body, the mind of in-laws of the petitioner Manjit Kumar Mishra has changed, not only that, had it been the case that the victim was being subject to any torture, there was no occasion for the informant to agree for cremation without getting the post mortem done on the dead body of his daughter when he reached there and it is further apparent that the informant has deliberately suppressed the fact that he had sent his son to bring the deceased to Jamshedpur.

Having regard to the facts and circumstances of the case, let the petitioner of Cr. Misc. No. 35 of 2016, namely, Manjeet Kumar Mishra @ Manjeet Mishra and petitioners of Cr. Misc. No.

57829 of 2015, namely, Nand Kishore Mishra and Janak Raj Devi be released on bail in the event of arrest/surrender before the court below within a period of six weeks from today in Aurangabad Town P.S. Case No. 407 of 2015, on furnishing bail bond of Rs.10,000 (Ten Thousand Rupees) each with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Aurangabad subject to the conditions as laid down under sub-section(2) of Section 438 of the Code of Criminal Procedure.

(Dr. Ravi Ranjan, J)

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