

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43966 of 2016

Arising Out of PS.Case No. -29 Year- 2016 Thana -MAHILA PS District-
EASTCHAMPARAN(MOTIHARI)

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1. Jamadar Singh Son of Late Dip Narain Singh
2. Madhu Rathor @ Madhu Singh wife of Jamadar Singh
3. Ashutosh Kumar son of Jamadar Singh
4. Putul Devi @ Putul Kumari wife of Ashutosh Singh
All residents of Village- Sri Krishna Nagar, Police Station- Town,
District- East Champaran at Motihari.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Shanker Pankaj, Advocate
For the Opposite Party/s : Mr. Sri Rana Randhir Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 06-10-2016 Heard learned counsel for the petitioners and the informant.

The petitioners being parents, brother, brother's wife of the husband of the informant are apprehending their arrest in a case registered for the offences punishable under Sections 341, 342, 328, 313, 504, 307, 498A/34 of the Indian Penal Code, 3/4 of the Dowry Prohibition Act and 22 (I) and (II) of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.

The prosecution case is that the informant Priyanka Kumari submitted a written report before the



S.H.O. of Motihari Mahila Police Station, alleging therein that she was married with Kaushlendra on 25.11.2013, but after marriage torture was inflicted by in-laws family members for non-fulfillment of further dowry demand. It is also alleged that when the informant got pregnancy for the first time, she was forced to get the sex determination of the fetus done which reflected that the informant is carrying a baby girl, then she was administered some medicine through milk, as a result the pregnancy got terminated. The father of the informant wanted to lodge a case, but the accused including petitioners undertook not to repeat the act in future. Subsequently, the informant gave birth of a female child at her parents place. It is further alleged that when the informant got pregnant third time, then also she was forced to get the sex determination of the fetus and on refusal of the same, the informant was abused and assaulted on 18.06.2016. The accused persons also made an attempt to administer phenyl to the informant.

It is submitted by the learned counsel for the petitioners that marriage between informant and Kaushlendra performed on 25.11.2013 is admitted. The informant has not made her husband an accused. No accusation, even for getting the sex determination of the fetus, is alleged against the husband. There is no medical



report with regard to sex determination of the fetus or the pregnancy being terminated or the injury being received by the informant is not on record. Learned Sessions Judge has recorded that the case diary does not contain the injury report and in the background of a dispute with regard to share in the family property at the instigation of her husband, the informant has lodged the present case.

Learned counsel for the informant submits that entire exercise for sex determination of the fetus and getting the pregnancy termination was done at the behest of the accused persons. Hence, she has no medical documents on record and since husband used to reside outside the State hence, the torture was inflicted by the accused persons.

Considering the nature of accusation which is not being corroborated by any medical document and the submission on behalf of the petitioners that they will allow the informant to enjoy her share of property in the matrimonial house, let the above named petitioners be released on bail in the event of their arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Sadar Motihari, East Champaran in connection with Mahila P.S. Case No. 29 of

2016, subject to conditions as laid down under Section 438(2) of the Cr.P.C.

The bail bonds of the petitioners shall be accepted on filing the affidavit by each petitioner that they shall allow the informant to enjoy her share of property in the matrimonial house. The said affidavit will be transmitted to the concerned local Police Station. The non-compliance of undertaking given through the affidavit will give liberty to the learned court below to cancel the bail bonds of the petitioners.

(Dinesh Kumar Singh, J)

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