

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34247 of 2016

Arising Out of PS.Case No. -97 Year- 2015 Thana -MANIYARI District- MUZAFFARPUR

1. Md. Islam, son of late Md. Sadique, resident of village - Purshottampur,
Police Station - Maniyari, District - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pancham Lal Jaiswal, Advocate

For the Opposite Party/s : Mr. Sri Manoj Kumar - 1

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 26-09-2016

The case diary of Maniyari P.S. Case No. 97 of 2015 was called for vide order dated 11.08.2016, registered under Sections 307, 326, 498A/34 of the Indian Penal Code. Subsequently, Sections 304B and 302 of the Indian Penal Code was also added.

On receipt of the case diary, the matter was taken up on 29.08.2016. The learned A.P.P. after going through the case diary submitted that the case diary has been recorded till 19.07.2016, though the case was registered on 01.05.2015. It was further submitted that neither the injury report nor the post-mortem report is on the record.



Consequently, this Court vide order dated 29.08.2016 directed the Senior Superintendent of Police, Muzaffarpur to depute some responsible officer to be present before this Court on 26.09.2016 with injury report/post-mortem report, if any, and an affidavited explanation for not incorporating the injury report in the case diary more than a year of the registration of the First Information Report.

The Investigating Officer and Dy. S.P. are present.

Show-cause on behalf of Senior Superintendent of Police, Muzaffarpur dated 23.09.2016 has been filed. The show-cause reflects that the First Information Report was registered on 01.05.2015, when the victim Sahnaz Khatoon was admitted in Sadar Hospital, Muzaffarpur thereafter S.K.M.C.H., Muzaffarpur. The victim died on 18.05.2015. Though, the Supervising Officers, the Senior Superintendent of Police and Deputy Superintendent of Police, directed the Investigating Officer to obtain the injury report and the post-mortem report, but the Final Report vide Charge-sheet No. 116 of 2016 was submitted on 19.07.2016, under Sections 307, 326, 498A, 344B, 302/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act without injury report or post-mortem report and without the permission of the concerned authority. The Final Report (Charge-sheet) is not record to suggest that it was submitted without the permission of

Superior or Supervising Officer. Though this claim of Senior Superintendent of Police appears to be unreasonable. Statement to that effect has been made in paragraph-9 of the show-cause which reads as follows:-

“That the Investigating Officer had arrested the petitioner Md. Islam on 22.04.2016 and has submitted Charge-sheet no. 111 of 2016 dated 19.07.2016 under Sections 307, 326, 498A, 344B, 302/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act without obtaining the injury/post-mortem report and without the permission of the authority.”

Today, the post-mortem report duly certified by the Senior Superintendent of Police, Muzaffarpur along with injury report issued by the Medical Officer, Sadar Hospital, Muzaffarpur have been produced without any affidavit. Though the injury report of Medical Officer suggests that victim was referred to Sri Krishna Medical College Hospital but no injury report of S.K.M.C.H. till date has been brought on record. On query being made by the court, the Investigating Officer submitted that he received the post-mortem report and the injury report on 01.09.2016. The show-cause does not suggest that any effort has been made by the investigating agency to bring the injury/post-mortem report on the record of the lower court. In view of this Court that it could have been done only through submitting the same before the learned court below or conducting further investigation under Section 173(8) Cr.P.C. The entire show cause not only reflects the

casual manner in which the serious offence has been investigated and supervised, but it also reflects the casual manner in which the show cause has been filed before this Court.

Let, the Zonal I.G., Muzaffarpur look into the matter and do the needful.

Heard learned counsel for the petitioner and the State.

Petitioner being the father of the husband of the daughter of the informant is languishing in custody since 22.04.2016 in a case registered for the offences punishable under Sections 307, 326, 498A/34 of the Indian Penal Code. Subsequently, Sections 304B and 302 of the Indian Penal Code were added.

The prosecution case is that informant being the mother of the victim got her fardbeyan recorded on 27.04.2015 at 3.15 P.M. in the burn ward of S.K.M.C.H., Muzaffarpur to the effect that on 26.04.2015 at 2.00 P.M. some unknown persons informed that her daughter Sahnaz Khatoon has been caused burn injuries by the father-in-law (petitioner), mother-in-law and sister-in-law. Subsequently, this petitioner tied the hand and legs of the victim. The sister-in-law of Sahnaz poured Kerosene Oil, when the younger sister-in-law Ruksana Khatoon lit the fire. At earlier occasion the husband of the victim threatened to



cause burn injury to the victim. On the basis of which First Information Report was registered under Sections 307, 326, 498A/34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. Subsequently, the victim died on 18.05.2015 thereafter Sections 304B and 302 were also added.

It is submitted by the learned counsel for the petitioner that that informant is not the eye witness to the occurrence. Only on suspicion the accusation has been levelled in the First Information Report. The petitioner claims to be separate from the husband of the victim. During investigation it was found that the younger daughter of the petitioner, who lit the fire, was not present at the place of occurrence. The petitioner is aged about 70 years.

Learned A.P.P. after going through the case diary submits that paragraph-4 of the case diary contains the statement of the victim Sahnaz Khatoon, who has stated that this petitioner being the father-in-law also participated in causing burn injury to her. The husband of the informant has still not surrendered. The injury report of S.K.M.C.H., Muzaffarpur is yet not on record.

Considering the fact that the accusation levelled in the First Information Report has further been corroborated by the victim's statement recorded in the hospital, the post-mortem reflects 80-85% burn injuries,

this Court is not inclined to grant bail to the petitioner in connection with Maniyari P.S. Case No. 97 of 2015, pending in the court of learned Sub-Divisional Judicial Magistrate, West Muzaffarpur.

Accordingly, prayer for bail of the petitioner is rejected.

The presence of the Deputy Superintendent of Police, Muzaffarpur and Investigation Officer is dispensed with.

(Dinesh Kumar Singh, J)

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