

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35056 of 2016

Arising Out of PS.Case No. -160 Year- 2015 Thana -GAUNAHA District-
WESTCHAMPARAN(BETTIAH)

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1. Jaiprakash Soni, son of Lalan Prasad Soni Resident of Village- Masahi,
P.S- Gaunaha, District- West Champaran (Bettiah).

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 30-09-2016

The petitioner being husband of the daughter of the informant is languishing in custody since 20.05.2016 in a case registered for the offences punishable under Sections 498A and 304B of the Indian Penal Code.

The prosecution case as per the fardbeyan of Nirmala Devi recorded on 19.11.2015 at 9:45 P.M at the door of Lalan Prasad Soni is to the effect that informant's elder daughter Shital Devi performed love marriage with the petitioner Jaiprakash Soni about three years ago. The matrimonial relationship between the daughter of the informant and the petitioner were very cordial. The in-laws had a house at Narkatiaganj but the daughter of the informant and the petitioner used to reside at the native village Masahi. The father-in-law and mother-in-law of the victim were not liking the daughter of the informant since she got married with the



petitioner against their wishes. Hence, they used to torture the victim. The parents, brother and sister of the petitioner used to torture the daughter of the informant and used to demand dowry of rupees five lacs and jewellery. The informant and her husband made several attempts to pacify the issue. On 19.11.2015 at 12:00 P.M the daughter of the informant(victim) informed the informant that petitioner has gone to Bagaha but other in-laws family are fighting with her for the sake of dowry. After some time the informant tried to talk to her daughter but she could not talk and thereafter the informant received telephonic information that her daughter has been killed. The informant, thereafter, went to the house of the victim along with her paternal brother Ram Binod Sah, elder son Vicky Soni and brother Bhagwat Sah where the victim was found dead and this petitioner was crying while the other in-laws of the victim escaped from the scene. On the basis of the aforesaid accusation, the First Information Report was registered against the in-laws family and petitioner was not made accused in the F.I.R. The name of the petitioner sprang up in the subsequent statement of the informant where she raised suspicion about the involvement of the petitioner also in the killing of her daughter.

It is submitted by learned counsel for the petitioner that specific case of the informant is that petitioner performed love marriage with her daughter. There is no



accusation of demand of dowry by the petitioner. Hence, on this score also no case is made out against the petitioner under Section 304B of the Indian Penal Code. The presence of the petitioner at the time of occurrence is ruled out even as per the statement of the victim herself which she conveyed to her mother on phone. The fardbeyan of the informant was recorded after about nine hours and the F.I.R was registered after about fifteen hours of the receiving the information about killing of the victim. Hence, the F.I.R was registered after due deliberation of the incidence and petitioner was not named. The witnesses whose statements have been recorded in paragraphs 32 and 35 of the case diary who accompanied the informant to the victim's house when the F.I.R was registered, they also did not raise any suspicion against the petitioner at the time of recording of the fardbeyan.

It is submitted by learned counsels for the informant and the State after going through the case diary that in paragraph no. 32 of the case diary which contains the subsequent statement of the informant, she has raised suspicion against the petitioner. Paragraphs 33, 34 and 35 are the statements of the brothers and son of the informant where they have also raised suspicion against the petitioner. In paragraph nos. 96 and 102 of the case diary the spy has also suggested the involvement of the petitioner. Moreover paragraph 178 contains the supervision note of the Dy. SP

which also suggests the involvement of the petitioner.

Considering the rival submissions of the parties, the accusations levelled in the F.I.R does not suggest any accusation even suspicion against the petitioner, the accusation prima facie does not constitute any offence under Section 304B of the I.P.C when there is specific case of the informant that petitioner never demanded dowry and the investigation being concluded, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, West Champaran, Bettiah in connection with Gaunaha P.S. Case No. 160 of 2015.

Shageer/-

(Dinesh Kumar Singh, J)

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