

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35298 of 2013

Arising Out of PS.Case No. -294 Year- 2009 Thana -BARH District- PATNA

=====

1. Vikash Kumar, son of Chandrashekhar Prasad Singh
2. Pammi Devi, Daughter of Chandrashekhar Prasad Singh
3. Manju Devi, wife of Chandrashekhar Prasad Singh
All residents of Village- Bedna, Miyapur Tola, P.S.- Barh, District-
Patna

.... Petitioners

Versus

1. The State of Bihar
2. Vikky Kumar son of Krishnandan Singh, resident of village- Narumurar,
P.S.- Warsliganj, District- Nawada.

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Meeta Sinha

For the Opposite Party/s : Mr. A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 12-05-2016 Heard Sri Rajiv Verma, learned Senior Counsel,

who was assisted by Smt. Meeta Sinha, learned counsel for the
petitioners, learned Addl. Public Prosecutor and Sri Ram Pravesh
Kumar, learned counsel, who has voluntarily appeared on behalf
of the informant/Opp.Party no.2.

Three petitioners have approached this Court,
invoking its inherent jurisdiction under Section 482 of the Code
of Criminal Procedure, with a prayer to quash an order dated
18.07.2013 passed by the learned Additional District Judge-III,
Barh in Sessions Trial no.254 of 2013. By the said order, the
learned Addl. District Judge has rejected the discharge petition

filed under Section 227 of the Code of Criminal Procedure.

It was submitted by learned Senior Counsel that in the F.I.R., there was general and omnibus allegation and F.I.R. was lodged under Section 306/34 of the Indian Penal Code. However, during investigation the case was found under Section 304(B) of the Indian Penal Code. During investigation, only accusation against the husband of the deceased surfaced and other F.I.R. named accused, which includes the petitioners, were exonerated by the Investigating Agency. However, the learned Addl. Chief Judicial Magistrate, Barh by its order dated 10.03.2010 differing with the police report took cognizance of offence against the accused persons including the husband of the deceased. It was submitted by learned counsel for the petitioners that during investigation, the material has come, which suggests that the petitioners were always restraining the husband of the deceased from entering into controversy with the deceased and, as such, this was the reason that the police exonerated them.

Learned counsel for the informant /Opp.Party no.2 opposing the prayer submits that during investigation, it has surfaced that the accused persons were demanding motorcycle. This was the reason for the occurrence. He submits that the death of the informant has occurred within seven years from the

marriage.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. It is true that the petitioners were exonerated by the Investigating Agency, but fact remains that by order dated 10.03.2010 the learned Magistrate differing with the police report has taken cognizance of offence and at the time when the case arrived at the stage of charge, a petition was filed for discharge, which has been rejected by the court below.

The Court is of the considered opinion that at the stage of charge, if there is even probability of implication of any accused, charge can be framed. I do not find any error in the impugned order. The petition stands dismissed.

(Rakesh Kumar, J)

NKS/-

U			
---	--	--	--