

Arising Out of PS.Case No. -319 Year- 2015 Thana -KHAGARIA District- KHAGARIA

.... Petitioner/s

1. The State of Bihar.
2. Choote Kumar @ Chote Prasad Singh, S/o Late Permanand Prasad Singh, R/o village- Rahimpur, Pachkutti, P.S. Muffasil, District- Khagaria.

.... Opposite Party/s

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Opposite Party/s : Mr. Brajendra Nath Pandey, APP

4 28-09-2016 Heard learned counsel for the petitioner
and the State.

The prosecution case is of killing the daughter of the informant for non-fulfillment of dowry demand and getting the pregnancy terminated.

It is submitted by the learned counsel for the petitioner that petitioner admits his marriage with the



daughter of the informant and got her trained as A.N.M. She was suffering from renal failure for which she was being provided adequate medical assistance, but ultimately due to renal failure the victim died. As per own admission of the informant the marriage was performed on 02.05.2008 and the victim died on 24.05.2015, both the dates are not in dispute. Hence the case does not come within the purview of Section 304B of the Indian Penal Code as the victim died after more than seven years of marriage. So far as 164 Cr.P.C. statement of the victim being recorded on 22.05.2015 is concerned, it only suggests that the informant was being tortured by the petitioner and overdose of medicine was administered for getting the pregnancy terminated, leading to her kidney failure. Now, the investigation has already concluded. It is further submitted that the Co-ordinate Bench of this Court while considering the anticipatory bail of the father-in-law, mother-in-law and unmarried sisters-in-law vide Cr. Misc. No. 57322 of 2015 had occasion to go through the post-mortem produced by counsel for the informant, where it has clearly been recorded that the death was caused due to pre-existing disease as she died due to severe anemia, renal failure after being under treatment for a month in a hospital she died. On considering the above facts the co-accused were granted anticipatory bail. It is further submitted by the learned

counsel for the petitioner that on conclusion of investigation the Charge-sheet has been submitted under Section 304B of the Indian Penal Code.

It is submitted by the learned counsel for the informant that three days prior to the death victim got her statement recorded under Section 164 Cr.P.C. wherein on 22.05.2016 she has stated that she was being tortured and due to overdose of medicine she developed renal failure, hence it can be safely presumed that due to act of the petitioner the victim died. The matter was adjourned on 10.08.2016 on the prayer of the informant to produce the medical documents suggesting renal failure due to administering overdose of medicine or suggesting any injury corroborating the accusation of assault, but the same have not been produced. The post-mortem report does not suggest the reason of renal failure due to overdose of medicine or any injury being found on the dead body of the victim.

Learned A.P.P. after going through the case diary does not controvert this fact that post-mortem report does not suggests any injury nor Investigating Officer has collected any medical documents suggesting administering overdose of medicine developed into renal failure.

Considering the fact that the victim died

during treatment of renal failure and anemia, coupled with the fact that as per own admission of the informant the case does not come within the purview of Section 304B of the Indian Penal Code, let the above named petitioner, be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Khagaria in connection with Khagaria P.S. Case No. 319 of 2015.

(Dinesh Kumar Singh, J)

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