

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.436 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- MUZAFFARPUR

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1. Vivek Kumar Son of Ram Naresh Prasad
 2. Vikash Kumar Son of Ram Naresh Prasad
 3. Ram Naresh Prasad Son of Late Devnandan Prasad
 4. Gaytri Devi wife of Ram Naresh Prasad
 5. Jyoti Devi @ Jyoti Kumari Wife of Vikash Kumar All are residents of Bairia Gandhi Nagar, P.S. - Ahiyapur, District - Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Home Affairs, Government of Bihar, Old Secretariat, Patna.
3. The Director General of Police, Government of Bihar, Old Secretariat, Patna.
4. The Inspector General of Police, Tirhut Pramandal, Muzaffarpur.
5. The Superintendent of Police, Muzaffarpur.
6. The S.H.O. Police Station - Ahiyapur, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Narayan, Sr. Advocate
Mr. Kumod Kumar Shrivastaw, Advocate
For the Respondent/s : Mr. Subhash Prasad Singh, GA-3
: Mr. Dilip Kumar, AC to GA-3

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 02-08-2017

Heard learned counsel for the petitioner and the learned
Government Advocate for the State-respondent.

The petitioners are accused of Ahiyapur P.S. Case No.207
of 2011, a case under Sections 304B/201 of the Indian Penal Code.
The F.I.R. is based on the complaint filed on 31.05.2011 by
Dhananjay Prasad Shrivastawa alleging therein that Nibha Kumari,
the sister of the informant, was married with petitioner Vivek Kumar
on 29.11.2010. In spite of sufficient gift given by the informant, there



was more demand of dowry from the petitioners and on non-fulfilment of the same the petitioners tortured to the victim Nibha Kumari. Further allegation is that two months back Nibha Kumari was taken to her matrimonial house at mohalla Beria Gandhi Nagar, P.S. Ahiyapur, Distict- Muzaffarpr and on 23.05.2011 one Rajendra Rai informed that the sister of the informant was done to death by the in-laws and all have gone to dispose of the dead body.

After investigation of the case the police submitted charge sheet No.229 of 2013, under Sections 304B, 364, 201,498A and 120B of the Indian Penal Code. Thereafter, Sessions Trial No.292 of 2014 is pending before the Sessions Court at Muzaffarpur.

By invoking writ jurisdiction of this Court the petitioners have prayed for commanding the respondents as well as the learned Court-below/trial Court to not proceed with the trial as the trial Court has no territorial jurisdiction of the matter for the reason that the petitioner Vivek Kumar is a military man, on 23.05.2011 he was posted at Baramula in the State of Jammu and Kashmir and the victim was also residing along with him there at. All of sudden, the victim was found missing from the house. The petitioner intimated the aforesaid missing to his Officer-in-Charge immediately on 23.05.2011 itself, vide Annexure-8 and, thereafter again on 24.05.2011 vide Annexure-9 as well as to the Station House Officer of Siwalpatti Police Station vide Annexure- 10. He further submits that the Uri



Police Station granted a certificate vide Annexure-13 that nothing adverse was found against the petitioner during investigation nor any family members of the girl side appeared on notice to cooperate with the investigation. Contention is that the place of inquiry and trial should have been at Uri.

I do not find any merit in the aforesaid submission though the same may be a defence available to the petitioners during trial. The main reason for rejection of the submission of the petitioners is that the present F.I.R. was lodged with allegation that the victim was done to death at Beria in Muzaffarpur and after investigation the police has submitted charge sheet finding the allegation true. There is no material to substantiate that the complainant or the Ahiyapur Police had knowledge of any parallel investigation going on at Uri nor there is material on record to substantiate that Uri police has properly investigated the cognizable offence.

Therefore, I do not find any merit in this writ application. Accordingly, it stands disposed of being devoid of any merit.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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