

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.10385 of 2013

Arising Out of PS.Case No. -43 Year- 2010 Thana -VALMIKINAGAR District- -

=====

Suresh Sah Son Of Bihari Sah Resident Of Village - Pipra Kutti, P.S. -
Valmikinagar, District - West Champaran

.... Petitioner

Versus

1. The State Of Bihar
2. Prabhawati Devi Wife Of Shivanath Sah Resident Of Village - Pratappur, P.S. -
Semara, District - West Champaran

.... Opposite Parties

=====

Appearance :

For the Petitioner : Mr. Vijay Kumar No.1
For the State : Mr. Ramchandra Sahni, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 23-06-2017

This quashing petition is filed challenging the order dated 30.6.2012 passed by A.C.J.M., Bagaha in Trial No.467 of 2012 arising out of Valmikinagar P.S. Case No.43 of 2010 whereby cogniance has been taken under Sections 304(B), 201, 120(B) of the Indian Penal Code against the petitioner-husband and rest other accused persons.

2. Learned counsel appearing on behalf of the petitioner submits that the petitioner is husband but police conducted the investigation and submitted final form against him finding lack of evidence against the husband and the same was accepted by the learned court below, thereafter, on the same material cognizance has



been taken and further investigation was directed by the Superintendent of Police. Learned counsel for the petitioner submits that in fact the petitioner's wife died due to illness and she was treated in two hospitals. The learned counsel has placed reliance on the case of **S.N. Singh vrs. State of Bihar** reported in **1996(2) PLJR 158**.

3. Learned counsel appearing on behalf of the opposite party no.2 submits that just after two years of marriage daughter of the informant was killed by the accused persons as they were making demand of motorcycle and one buffalo right from solemnization of marriage and there is evidence in the case diary against the petitioner.

4. Having considered the said fact and on perusal of the record, I find that final form was submitted against the petitioner showing lack of evidence but investigation continued against rest other accused persons thereafter, further evidence was collected against the husband showing his involvement too and charge sheet was submitted against all the accused persons including the husband. The ratio relied upon by learned counsel appearing on behalf of the petitioner in case of **S.N. Singh (Supra)** does not apply in present case as in that case cognizance was taken on supplementary charge sheet without any further investigation but in the present case, subsequent evidence was collected as investigation was already continuing against other accused persons. Moreover,



there is no document produced by the petitioner-accused relating to a certificate of any doctor or hospital wherein his wife went under treatment and died of illness so the learned Magistrate has rightly taken cognizance of the offence.

5. I find no merit in this application accordingly, it is dismissed.

(Arun Kumar, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14-07-2017
Transmission Date	14-07-2017

