

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26869 of 2014

Arising Out of PS.Case No. -193 Year- 2013 Thana -RAJPUR District- BUXAR

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1. Satta Chouhan
 2. Nagendra Chouhan @ Nagendra Kumar Singh
 3. Kanhaiya Chouhan All are S/o Anirudh Chouhan R/o Village - Akbarpur, P.S. Rajpur, District - Buxar

.... Petitioner/s

Versus

1. The State of Bihar
2. Narad Chauhan son of Late Dahari Chouhan, Resident of Village- Mangoolpur, P.S. Chousa, P.S. Ittarhi, District- Buxar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Din Bandhu Singh, Adv.
Mr. Santhosh Kumar, Adv.
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 02-08-2017

The present case arises out of Rajpur P.S. Case No. 193 of 2013 dated 08.10.2013 filed by the Opposite Party No.2.

2. The accused Nos. 2, 3 and 4 are the petitioners herein.

3. It has been alleged in the written complaint filed by the Opposite Party No.2 before the Officer-in-charge, Rajpur Police station that about eight years back he had married his daughter, namely, Bindu Devi, with one Anirudh Chouhan (Accused No.1) according to Hindu rites and custom. It has been further alleged that the daughter of the Opposite Party No.2 used to make complaint that her husband used to beat her. The said Bindu Devi was the second



wife of Anirudh Chouhan. It is the further case of the Opposite Party No.2 that on 07.10.2013 at about 6 in the evening, he received information that the petitioners herein, sons from the first wife of the said Anirudh Chouhan, had killed his daughter. The Opposite Party No.2 is said to have then gone to the matrimonial home of his daughter at about 10 P.M. and found that there was only three female members in the house and upon asking them about whereabouts of Bindu Devi, they did not disclose anything. The Opposite Party No.2 and others had then tried to find out about the whereabouts of Bindu Devi, but she could be found. It is the allegation of the Opposite Party No.2 that the said three sons of the first wife of Anirudh Chouhan had killed his daughter and her dead body was made to disappear. On the basis of the said complaint of the Opposite Party No.2, Rajpur P.S. Case No. 193 of 2013 was registered under Sections 302, 201 and 34 of the Indian Penal Code against the petitioners herein and their father, namely, Anirudh Chouhan.

4. A charge sheet dated 17.12.2013 was submitted by the police only against Anirudh Chouhan (accused No.1) for the offence punishable under Sections 302 and 201 of the Indian Penal Code, however, final form was submitted against the petitioners herein.

5. The learned C.J.M., Buxar, by an order dated 18.01.2014, differed from the final form submitted by the police and



took cognizance of the offence punishable under Sections 302 and 201 of the Indian Penal Code against the petitioners herein.

6. The petitioners had preferred Criminal Revision No. 33 of 2013, assailing the aforesaid order dated 18.01.2014 passed by the learned C.J.M., Buxar in Rajpur P.S. Case No. 193 of 2013. The said Revision petition bearing Criminal Revision No. 33 of 2014 has been dismissed by an order dated 05.04.2014.

7. The aforesaid order dated 05.04.2014 is under challenge in the present case.

8. The learned counsel for the petitioners has submitted that as far as the petitioners are concerned, there is no material on record to suggest their complicity in the alleged offence. The learned counsel for the petitioners has further brought on record a copy of the judgment dated 22.04.2015 passed in Sessions Trial No. 82 of 2014 arising out of Rajpur P.S. Case No. 193 of 2013 wherein the aforesaid Anirudh Chouhan (accused No.1) has been acquitted after a full-fledged trial. In the said Sessions Trial No. 82 of 2014, P.W. 1- Narad Chouhan, the informant and the father of Bindu Devi, has deposed that his daughter had died on account of pain in her stomach and some body had wrongly informed about cause of death of his daughter. The said P.W. 1 has further stated that he had also attended the Shradh ceremony, which was done according to the prevailing



custom and has further denied the complicity of Anirudh Chouhan and his family members in the death of his daughter as well as has stated that there was no demand for dowry. All the other witnesses i.e. P.Ws. 2 to 8 have been declared hostile. The Investigating Officer i.e. P.W. 9 has stated that he had filed charge sheet only against Anirudh Chouhan. In such view of the matter, especially on account of the fact that the informant of the present case namely, Narad Chouhan had deposed that his daughter has died on account of illness, the father of the petitioners herein has been acquitted by the aforesaid judgment dated 22.04.2015.

9. The learned counsel for the petitioners submits that the aforesaid Sessions Trial No. 82 of 2014 and the present case arise out of the same FIR i.e. Rajpur P.S. Case No. 193 of 2013 and the informant himself has admitted in the aforesaid Sessions Trial No. 82 of 2014 that his daughter had died on account of illness and the same has also resulted in acquittal of accused No.1, hence the criminal proceedings are liable to be quashed and the order dated 05.04.2014 passed in Cr. Revision No. 33 of 2014 is also fit to be set aside.

10. I have perused the materials on record and have given thoughtful consideration to the arguments advanced on behalf of the petitioners. It is true that the police had found no evidence against the petitioners herein and had submitted final form against the petitioners



herein on account of lack of evidence against them. The learned Sessions Judge, Buxar has passed the impugned order dated 05.04.2014 in Criminal Revision No. 33 of 2014 wherein apart from reproducing the contents of the FIR ad-verbatim and recording submissions of the parties, has not furnished any reason for dismissing the said criminal revision petition much less stated any plausible reason for dismissing the criminal revision petition, which would show his application of mind.

11. Another aspect of the matter is that a bare perusal of the written complaint of the Opposite Party No.2 would show that the petitioners herein have been roped in along with their father merely on the basis of suspicion, without there being any material to connect them with the death of Bindu Devi. Moreover, the factum that the main person i.e. the husband of the deceased Bindu Devi has been acquitted by the learned trial court in the same case out of which the present case arises and the informant of the said FIR, namely, Narad Chouhan has also admitted in his deposition before the learned trial court in Sessions Trial No. 82 of 2014 that his daughter had died due to illness and he had also participated in the *shradh* ceremony of his daughter, no useful purpose will be served in letting the present case linger, which would further amount to overburdening the already overburdened trial courts, for no rhyme or reason. In this connection



it would be apt to refer to a judgment of the Hon'ble Apex Court reported in (2005)1 SCC 478 [**Central Bureau of Investigation vs. Akhilesh Singh**].

12. For the reasons stated herein above, the present petition is allowed, the order dated 05.04.2014 passed by the learned Sessions Judge,Buxar in Criminal Revision No. 33 of 2014 as well as the order taking cognizance dated 18.01.2014 passed by the learned C.J.M., Buxar are hereby quashed, consequently, the entire criminal proceedings emanating from Rajpur P.S. Case No. 193 of 2013 also stands quashed.

13. There shall be no order as to costs.

(Mohit Kumar Shah, J)

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