

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.37829 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- BHOJPUR

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1. Brahmdeo Singh S/O Late Khedu Singh Resident Of Village- Keshavpur, P.S.- Barhara, District- Bhojpur
 2. Deepak Kumar Singh @ Diwakar Singh S/O Brahmdeo Singh Resident Of Village- Keshavpur, P.S.- Barhara, District- Bhojpur
 3. Shailesh Kumar Singh @ Shailesh Singh S/O Brahmdeo Singh Resident Of Village- Keshavpur, P.S.- Barhara, District- Bhojpur
 4. Rima Devi @ Reema Devi W/O Shailesh Kumar Singh Resident Of Village- Keshavpur, P.S.- Barhara, District- Bhojpur
 5. Satish Kumar Singh @ Satish Singh S/O Brahmdeo Singh Resident Of Village- Keshavpur, P.S.- Barhara, District- Bhojpur

.... Petitioners

Versus

1. The State Of Bihar
2. Sunder Mani Devi W/O Late Nagendra Singh Resident Of Mohalla- Dhakkanpur, P.S.- Gardanibagh, District- Patna

.... Opposite Parties

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Appearance :

For the Petitioners : Mr. Madan Kumar, Advocate

For the State : Mr. Murlidhar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 07-08-2017

The petitioners filed this application under Section 482 of the Code of Criminal Procedure, 1973 for quashing order dated 14.12.2010 passed by S.D.J.M., Bhojpur in connection with Complaint Case No.3051 of 2010 thereby taking cognizance of the offence under Section 304(B) and 120(B) of the Indian Penal Code.

2. The allegation, in brief, is that the informant, mother of the victim, filed Barhara P.S. Case No.53 of 2008 dated 29.3.2008 registered under Section 304(B) of the I.P.C. relating to occurrence dated 18.3.2008 alleging therein that her daughter was married with



one of the accused Satish Singh in the year 2006 and in the hospital, she disclosed that she was being tortured by the accused persons and accused persons had set fire on her body. However, police submitted final form coming to the conclusion on the basis of oral statement of the witnesses of the matrimonial village that it was an accidental fire. The informant filed a protest petition treating the same on complaint case, the lower court proceeded with enquiry thereafter cognizance has been taken in this case.

3. Learned counsel appearing on behalf of the petitioners submits that an accidental fire caused death to wife of petitioner no.5. The petitioners brought her to burn hospital at Patna and also informed her parents, her mother also turned up there and on next day of her admission to hospital, the statement of the victim was taken in presence of the A.S.I. also signed by her mother at the foot of the statement, wherein she admits that she caught accidental fire while preparing meal and she had no grievance with any family members. The police considering the evidence collected during investigation submitted final form coming to the conclusion that it was a case of accidental fire. However, learned counsel for the State submits that the so-called statement of the victim taken in the hospital does not appear a credible document because victim sustained serious burn injury all over the body and there is no certificate given by the doctor that she was in conscious state to give such statement, the statement



has not been recorded in presence of any doctor. Moreover, the mother of the informant has submitted that her signature on the said statement was taken on a blank sheet of paper.

4. Having gone through the material on record, it appears that the so-called statement of the victim girl taken at the burn hospital appear a disputed document cannot be relied on for the reason that neither statement was taken in presence of the doctor nor there is any certificate of the doctor treating her to show she was in conscious state. She was admitted on 18.3.2008 and died only after three days on 21.3.2008 and postmortem report shows that she suffered extensive burn injury from head to toe; even some witnesses whose statement finds place in the case diary, who remained all along with victim during treatment in the hospital that she all along remained in unconscious state, therefore, there is sufficient material on record disclosing offence, so finding no merit this application stands dismissed.

(Arun Kumar, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
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