

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32235 of 2016

Arising Out of PS.Case No. -1197 Year- 2012 Thana -COMPLAINT CASE District- JAMUI

- =====
1. Ranjit Das
 2. Gautam Das

Both sons of Nand Keshar Das
Resident of Village- Sugwa Mahua, Police Station- Barhat, District-
Jamui

.... Petitioner/s

Versus

1. The State of Bihar
2. Kunti Devi Wife of Late Chando resident of village- Nazari, P.S.
Laxmipur, Dist. Jamui

.... Opposite Party/s

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With

Criminal Miscellaneous No.37857 of 2016

Arising Out of PS.Case No. -1197 Year- 2012 Thana -COMPLAINT CASE District- JAMUI

- =====
1. Nirmala Devi Daughter of Nand Keshar Das
 2. Reena Devi Wife of Ranjeet Das

Both resident of Village- Sugwa Mahua, Police Station- Barhat, District
Jamui.

.... Petitioner/s

Versus

1. The State of Bihar
2. Kunti Devi wife of late Chando Das Resident of Village- Nazari, Police
Station Laxmipur, Distt Jamui.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.32235 of 2016)

For the Petitioner/s : Mr. Anamul Haque

For the Opposite Party/s : Mr. Smt Anuradha Singh

(In Cr.Misc. No.37857 of 2016)

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

06/ 02-02-2017

Counsel for the petitioners is permitted to



make correction in the supplementary affidavit with regard to the Cr. Misc. No. of the present application.

Heard learned counsels for the petitioners and the State.

Petitioners in Cr. Misc. No. 32235 of 2016 being the elder brothers of the husband of the daughter of the complainant whereas petitioners in Cr. Misc. No. 37857 of 2016 being the mother (Nirmala Devi) and brother's wife (Reena Devi) of the husband of the daughter of the complainant are apprehending their arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 304B, 498A, 201 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act.

The basic accusation is of killing the daughter of the complainant after about seven years of the marriage for non-fulfillment of the dowry demand of Rs.50,000/- and colour T.V. It is also alleged that the complainant had also lodged Sanaha No. 3055 against the accused persons on 13.12.2007. The complainant's daughter gave birth to a female child namely, Babli Kumari. Subsequently the daughter of the complainant gave birth to a male child namely, Amardeep. Children were seven years and eleven months old respectively at the time of filing of complaint.



The daughter of the complainant was ailing since long but the accused persons were not providing any medical assistance to her. The accused persons took the victim to a village doctor Rajkumar Ravidas, who happens to be paternal brother-in-law of the victim but in conspiracy with the alleged village doctor the daughter of the complainant was killed. On 29.07.2012 the husband of the victim namely, Dilip Das and his brother Gautam Das came and took the infant daughter of the victim from the house of the complainant and they threatened to kill her like daughter of the complainant. With these accusations, the complaint was filed on 02.08.2012 and subsequently process was issued after cognizance being taken.

It is submitted by learned counsel for the petitioners that the marriage between the daughter of the complainant and accused Dilip Das in Febraury, 2005 is admittedly when the victim admittedly died on 09.09.2011, hence, the victim died after more than seven years of marriage and thus, the case does not come within the purview of section 304B IPC. Moreover, the entire complaint petition does not suggest any demand of dowry immediately before the marriage, hence, on this score also the case does not come within the purview of section 304B IPC. The malicious nature of accusation gets reflected from



the fact that deliberately the date of marriage has not been given in the complaint petition. It is only mentioned that the victim was marriage with Dilip Das in the year 2005. The complaint also does not suggest the date of death. The complainant, Kunti Devi, the mother of the victim lodged Barhat P.S. Case No. 68 of 2011 on 10.09.2011 levelling accusation under Section 302 IPC against Rajkumar Ravidas, a village doctor, with accusation that the complainant's daughter was expecting child, hence, while she was being taken to Jamui Hospital but on the way the village doctor Rajkumar Ravidas met and he assured that he will get the delivery done safely, but while doing so the uterus of the daughter of the complainant got burst and due to the excessive bleeding she died on 09.09.2011 but the dead body was disposed of, though the police came to enquire about the incident but they did not make any disclosure. On 10.09.2011 they went to the police station and submitted a written report which led to registration of Barhat P.S. Case No. 68 of 2011. The same has been brought on record as Annexure -3 to the supplementary affidavit.

It is further submitted that the accusation in the FIR of Barhat P.S. Case No. 68 of 2011 suggests that the victim died on 09.09.2011 and 24 hours thereafter the FIR was lodged when the accusation was levelled only against village doctor



Rajkumar Ravidas but no suspicion was raised against the petitioners or the husband of the victim. But after 11 months of the lodging of the earlier FIR and the death of the victim the present complaint was filed on 02.08.2012. Hence, on the ground of delay also the prosecution case does not inspire confidence. The complainant has deliberately suppressed the lodging of Barhat P.S. Case No. 68 of 2011 in the complaint petition. The accusation is only specific against the husband of the victim, who has been granted anticipatory bail by a co-ordinate Bench of this Court vide order dated 19.01.2017 passed in Cr. Misc. No. 1828 of 2017 as contained in Annexure-4 to the supplementary affidavit. The father of the husband of the victim has also been granted bail by this Court vide Cr. Misc. No. 22273 of 2016. Though, there is accusation that the petitioner Gautam Das and the husband of the victim namely, Dilip Das took the minor daughter of the victim and threatened to kill her but there is nothing on the record to suggest that any injury was caused to the daughter of the victim.

Considering the inconsistent stand of the complainant as the accusation in Barhat P.S. Case No. 68 of 2011 suggests that while getting the delivery done doctor Rajkumar Das got the uterus burst as a result of excessive bleeding she died but in the complaint it is alleged that the victim was taken to Rajkumar



Ravidas and in conspiracy she was killed. It appears that lodging of the earlier case was deliberately suppressed by the complainant.

Keeping in view of the fact that the complaint was lodged after 11 months of the occurrence, the earlier police case depicts the different reason of the death of the victim, no post-mortem was done, the dead body was disposed of by the complainant side of their own and the husband of the victim namely, Dilip Das has been granted anticipatory bail, let the above named petitioners be released on anticipatory bail, in the event of their arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Sub-divisional Judicial Magistrate, Jamui in connection with Complaint Case No. 1197C of 2012, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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