

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40212 of 2013

Arising Out of P.S.Case No. -581 Year- 2012 Thana -AURANGABAD COMPLAINT CASE
District- AURANGABAD

=====

Maheshwar Kumar Additional General Manager, Bhartiya Rail Bijli Company Ltd.(BRBCL) Son of Yadunandan Paswan Resident of Room No.4, Field Hostel Campus, Dalmiya Nagar, P.S.-Dalmiya Nagar, Distric-Rohtas

.... Petitioner

Versus

1. The State of Bihar
2. Meena Kumari Wife Of Late Shankar Mahto Resident of Village-Chourkap, P.O.-Bhadokhara, P.S.-Tilauthu, District-Rohtas, Presently Residing At Dhundhua Tola, Kushwaha Nagar, P.O.-Khadaha, Panchayat-Erka, P.S.-Nabi Nagar, District-Aurangabad (Bihar)

.... Opposite Parties

=====

Appearance :

For the Petitioner : Mr. Anil Kumar Sinha, Advocate
For the Opposite Parties : Mr. Nityanand, APP

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 02-08-2017

This application under section 482 of the Cr.P.C. has been filed to quash the order dated 25.04.2013 passed by learned Judicial Magistrate, Ist Class, Aurangabad in Complaint Case No.581 of 2012/1977/2013 whereunder the learned Magistrate finding prima-facie case for the offence under Sections 304A, 201 and 120B/34 of the IPC, summoned the petitioner.

2. Heard and perused the record.

3. The facts in brief is that the Opposite Party No.2 filed a complaint case on the file of CJM, Aurangabad alleging inter-alia that her husband was working as labourer in Diplex Company since



05.06.2012 and on 15.06.2012 her husband was on duty while working of fencing of barbed wire was being carried out by the said company. She has further stated that on 15.06.2012 when her husband was carrying cement bags, he lost balance and fell down on the barbed wire. The bags which was being carried also fell upon him and he sustained injuries. He remained crying for half an hour but neither the contractor nor his Munshi came for his rescue. They did not take any step for sending him for treatment. The complainant was informed by a co-villagers whereafter she along with witnesses came. They tried to carry him to hospital but in the meanwhile her husband died.

4. It has been submitted that this petitioner was Additional General Manager of Bhartiya Rail Bijli Company Limited which is a government company and he had no concern with the casual labourer who were engaged by a Diplex company to carry out a contract work. The petitioner is a government servant and so he cannot be prosecuted without taking sanction under Section 197 of the Cr.P.C. The husband of Opposite Party No.2 was a casual labour working under a contractor. There is no allegation of negligence on the part of this petitioner in the instant case. The husband of Opposite Party No.2 suddenly fall in a ditch and sustained bleeding injuries and instantly died. The Opposite Party No.2 immediately rushed there and saw her husband in injured condition. In such circumstances, the allegation of



Section 201 is also not made out against the petitioner. There is absolutely no material for constituting offence under Section 304A, 201 and 120B/34 of the IPC against this petitioner. The criminal prosecution of this petitioner appears to be abuse of the process of the Court. Besides that no sanction for the prosecution under Section 197 of the Cr.P.C. has been obtained and so the impugned order is not sustainable in law.

5. In view of the above facts, the impugned order dated 25.04.2013 passed by Judicial Magistrate, Ist Class, Aurangabad taking cognizance with respect to this petitioner is quashed. The application is allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	13.08.2017
Transmission Date	13.08.2017

