

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19840 of 2018

Arising Out of PS. Case No.-3 Year-2018 Thana- NAWADA District- Nawada

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1. Kari Devi, Wife of Shivalak Yadav.
 2. Shivalak Yadav, Son of Late Somar Yadav, Both Resident of Village-Manlochak, P.S.-Roh, District-Nawada.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Deepak Kumar

For the Opposite Party/s : Mr. Sri Braj Kishore Prasad

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-04-2018 Heard learned counsels for the petitioners and State.

The petitioners being the parents of the husband of the victim are apprehending arrest in a case registered for the offences punishable under Sections 304B/34 of the IPC.

The prosecution case, as per the written report of Dinesh Prasad Yadav dated 01.01.2018, submitted to the Station House Officer, Kadirganj Police Station is to the effect that the daughter of the informant, Sarmila Devi was married with son of the petitioners, Vinod Yadav, about ten years prior to the lodging of the present case, but due non-fulfillment of the further dowry demand, torture was inflicted by the petitioners and brother of the husband of the victim, V.P. Yadav. However, this is an admitted fact that after marriage, the victim was



blessed with three children and the eldest one, at the time of lodging of the FIR, was eight years old. On 25.12.2017, the informant received information from someone else that the accused persons have threatened to kill the daughter of the informant, whereupon the informant went to the in-laws house of his daughter, where he was informed that his daughter is not in the house since last five days. Thereafter, the nephew of the informant located the dead body of the daughter of the informant on 01.01.2018 floating in a pond.

It is submitted by learned counsel for the petitioners that as per the own admission of the informant that the marriage was performed ten years prior to the death of the victim, hence, the case does not come within the purview of Section 304B of the IPC. However, the informant was mentally abraded for which she was under consistent treatment. She used to leave the house without informing anybody and when she left the house on 23.12.2017 then information was given to the police in writing on 28.12.2017 by petitioner no.2, as contained in Annexure-2. The postmortem report of the victim reflects the cause of death due to asphyxia caused by drowning and no injury particularly resisting injury has been found over the dead body of the victim. Moreover, the husband of the victim has not been made accused.



Learned APP, however, submits that the petitioners are named in the FIR, but does not controvert the fact that as per own admission of the informant, the case does not come within the purview of Section 304 B of the IPC.

Considering the fact that prima facie, the case does not come within the purview of Section 304B of the IPC and there is no eye-witness to the occurrence, let the above named petitioners be released on anticipatory bail in the event of arrest/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 like amount each to the satisfaction of learned Chief Judicial Magistrate, Nawada in connection with Nawada (Town) P.S. Case No. 03 of 2018, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

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