

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.69 of 2015

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Rakhi Thakur, Wife of Late Raushan Thakur resident of
Mohalla- Azam Nagar, Police Station- L.N.M.U and District -
Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.
 2. Arun Kumar Thakur, Son of Late Kapileshwar Thakur.
 3. Deepak Thakur, Son of Arun Kumar Thakur.
- Both resident of Mohalla- Azam Nagar, Police Station-
L.N.M.U., District- Darbhanga.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Girish Chandra Jha
For the O.P. Nos. 2 & 3 : Mr. Bindhyachal Singh, Adv.
For the State : Mr. S.N. Shukla, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

11 21-08-2018 Heard the learned counsels for the petitioner,
opposite party Nos. 2 and 3 and the State.

The petitioner/informant of L.N.M.U. P.S. Case
No. 113 of 2013 has challenged the order dated 20th
October, 2014 passed in Sessions Trial No. 174 of 2014 by
the learned Adhoc Addl. Sessions Judge-IV, Darbhanga,
whereby, the opposite party Nos. 2 and 3 have been



discharged of the offences under Sections 328, 302, 498-A and 34 of the Indian Penal Code (*in short the I.P.C.*).

It has been submitted on behalf of the petitioner/informant that despite there being strong suspicion against the opposite party Nos. 2 and 3, the aforesaid order of discharge has been passed, which is not sustainable in the eyes of law.

The petitioner/informant had filed the subject F.I.R., alleging that she was married to the deceased in the year 2009 and ever since her marriage, she found that the opposite party Nos. 2 and 3, who are the father and elder brother of the deceased respectively, had been pressurizing upon the deceased to go to a distant land for earning money. Forced and goaded by the aforesaid act of the opposite parties, the husband of the informant/petitioner (deceased) had left home and had gone to Delhi for earning his livelihood. On one occasion, it has been alleged, the deceased had come back home. At that time, the informant/petitioner saw that the deceased accepted the offer of drinks by the opposite party Nos. 2 and 3. After the deceased came out of the room where all the three were drinking, he complained to the informant/petitioner that he has been administered poison. When the condition of the deceased started deteriorating,



the informant/petitioner claims to have taken him to hospital. She has also stated in the First Information Report that that the opposite party No. 3 (brother of the deceased) also accompanied them to a local Doctor and, thereafter, to the hospital. The deceased, thereafter, died.

The First Information Report was registered on the basis of the aforesaid statement of the wife/informant/petitioner.

During the investigation, the *viscera* was sent for examination to the Forensic Science Laboratory and the report reflected that the death was on account of poisoning by celphos, a poisonous substance.

In the entire investigation papers, the only material which has been collected is the statements of the witnesses, who are the relatives of the informant/petitioner, viz. the informant/petitioner was not treated well in her matrimonial home. None of the witnesses have stated that the deceased was not carrying on good relations with his father and brother, who wanted him to leave the town/home and go to a different place for earning. Even while the deceased was not feeling well after consuming liquor, he was accompanied to the hospital by one of the accused persons, viz. opposite party No. 3. If the opposite party Nos. 2 and 3 had administered poison



to the deceased, they or any one of them would not have taken the risk of going to the Doctor or the hospital for treatment of the deceased. There is also no evidence that any deleterious substance was administered to the deceased by the opposite party Nos. 2 and 3.

In the absence of any material suggesting dispute between the father, brother and the deceased and the entire investigation pointing towards the opposite party Nos. 2 and 3 ill-treating the informant/petitioner, the learned Trial Court was of the view that there was not even a scintilla of suspicion against the opposite party Nos. 2 and 3 for killing the deceased and, hence, discharged them from the offences under Sections 328, 302, 498-A and 34 of the I.P.C.

The learned counsel appearing for the opposite party Nos. 2 and 3 has also informed this Court that about a month prior to the lodging of this present case, the deceased has filed an informatory petition against his wife/informant/petitioner, alleging that he was being subjected to mental and physical torture at her hands. In this context, it has been argued, that the narration made in the First Information Report, the statement of the witnesses collected during the course of the investigation, there being no evidence about any bad blood or



relationship between the accused persons and the deceased and absence of any material indicating that the deceased was administered poison by the opposite parties, it stood established that the informant/petitioner was only trying to feed fat her grudge against her husband and the opposite party Nos. 2 and 3.

The aforesaid submission gets further buttressed by the admitted fact that opposite party No. 3 had accompanied the informant/petitioner as well as the deceased to the hospital.

Considering the aforesaid nature of materials collected against the opposite party Nos. 2 and 3, this Court does not deem it appropriate to interfere with the order passed by the learned Trial Court in discharging them from the case.

The revision petition is, thus, dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

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