

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13296 of 2015

Arising Out of PS. Case No.-388 Year-2013 Thana- BAHADURPUR District- Darbhanga

Thakani Devi W/o Bhola Yadav R/o Basatpur, P.S. Bahadurpur Patore O.P. ,
Distt. - Darbhanga

... .. Petitioner/s

Versus

1. State Of Bihar
2. Upendra Yadav S/o Late Thakko Yadav P.S. Sadar, Distt. - Darbhanga

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dharmendra Jha
For the Opposite Party/s : Mr.Nirmal Kr.Sinhaapp

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 09-05-2019 Heard the learned counsel for the parties.

The present petition has been filed for quashing the order dated 01.11.2014 passed by the Adhoc Addl. Sessions Judge-4, Darbhanga in Sessions trial no. 129 of 2014 (arising out of Bahadurpur (Pataur) PS case no. 388 of 2013), whereby and whereunder the opposite party no. 2 i.e. the father-in-law of the deceased has been discharged from the offence punishable under Sections 304(B), 120(B), 201 of Indian Penal Code.

The brief facts of the case are that on the basis of *fardbeyan* of the informant Thakani Devi recorded by ASHO of Bahadurpur PS on 09.11.2013, an FIR was lodged, whereby and whereunder the informant had disclosed that the deceased was married with one Dharendra Yadav, son of the petitioner herein



about one and a half years back and sufficient dowry was also given, however the accused persons used to torture the daughter of the informant for want of more dowry and ultimately, on 11.10.2013, the son-in-law of the informant and his brother-in-law came to the house of the informant and asked for a sum of Rs. 1 lac and upon non-payment of the same, they took away the deceased, whereafter on the next day, the dead body of the deceased was found.

It appears that the petitioner i.e. the father-in-law of the deceased had filed a petition under Section 227 Cr.P.C. for discharge, whereupon the trial court had examined the said petition and had come to the following finding in its order dated 01.11.2014 :-

“From rival contentions of parties, it is found that informant’s daughter was married with Dhirendra Yadav. Subsequently, she was being pressurized to bring Rs. 1 lac and some other articles and when she failed to do so, she was killed. Submission is that petitioner is father-in-law of the deceased and he has no control over day to day activity of husband of deceased. The deceased was living with her parents from last four months. FIR goes to Eight weeks’ time is granted to the opposite parties to file show cause showing compliance of the order dated 20.04.2018 passed in CWJC no. 7207 of 2018.

List this case after twelve weeks under the heading “For Admission”. that deceased



was admittedly in her parental home and her dead body was recovered from her parental home. It has also come that prior to one day of occurrence husband and his Bahnoee went to parental home of deceased and forcibly, took away deceased after Bidagri on motorcycle and on next day, dead body of deceased was found lying nearby place of informant. The witnesses referred in case diary have also stated that husband and his relative took away deceased. Section 227 Cr.P.C. reads as follows. If upon consideration of the record of the case and the documents submitted therewith and after hearing the submission of the accused and the prosecution in this behalf, the Judge shall considers that there is not sufficient ground for poceeding against the accused, he shall discharge the accused and record his reasons for doing so. It is held that at the stage of Section 227 the Judge has rely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. The sufficiency of ground would take within its fold the nature of the evidence recorded by suspicious circumstances against the accused so as to frame charge against him. It is held in 2014(1) PLJR 305 that Court is neither a substitute nor an adjunct of the prosecution. On contrary once a case is presented to it by the prosecution, its bounden duty to sift through the material to ascertain whether a prima facie case has been established would justify and merit the prosecution of a person. The Hon'ble Apex Court further held that Court is not post office and mouth piece to prosecution. the court has to shift material collected during investigation and came to the conclusion that prima facie case is made out or not if material collected during investigation discloses are



suspicion, the court will discharge the accused.”

I have gone through the impugned order dated 01.11.2014 as also the materials available on record and it transpires from the First Information Report itself that the son-in-law of the informant and his brother-in-law had gone to the house of the informant and upon non-payment of a sum of Rs. 1 lac, they had taken away the deceased, whereafter the dead body of the deceased was found on the next day, hence no complicity of the petitioner is disclosed from the FIR. Moreover, the evidence collected during the course of investigation and thereafter, also shows that the husband of the deceased and the relative of the husband of the deceased had taken away the deceased, whereafter the dead body was found and infact, the dead body is said to have been recovered from a place situated near the house of the informant. The learned trial court has also found that there is no complicity of the petitioner herein in causing the death of the deceased and he being the father-in-law, had no control over the day-to-day activities of his son and if at all, anyone is responsible, it may be the husband i.e. the son of the petitioner herein.

Having regard to the facts and circumstances of the case, this Court finds that the impugned order dated 01.11.2014



is a just, reasoned and a speaking order which requires no interference, hence the present petition is dismissed.

(Mohit Kumar Shah, J)

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