

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6740 of 2015

Arising Out of PS. Case No.-40 Year-2008 Thana- PIPRA District- East Champaran

1. Sanjay Kumar @ Sanjay Kumar Singh Son of Late Sita Ram Singh
2. Doli Devi Wife of Sanjay Kumar @ Sanjay Kumar Singh Both Resident of Village - Puran Chapra, P.S.- Chakiya, District - West Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Binod Kumar Mishra, Adv
For the Opposite Party/s : Mr.Pradip Nr. Kumar, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 24-06-2019

Heard learned counsel for the parties.

2. Petitioners are accused in connection with Pipra P.S.Case No.40 of 2008 registered, under Sections 304B/34 I.P.C. and 3/4 of the Dowry Prohibition Act, on the statement of Abha Devi who was victim of dowry death.

3. The informant stated in her fardbeyan before the police that she was married with co-accused-Vikash Kumar Thakur four years back. Thereafter, the inlaws including the petitioners were demanding dowry in the form of a motorcycle and always used to assault her for non-fulfillment of dowry demand. All the accused person including the petitioners caused burn injury to her by pouring K.Oil on her body. The mother of the informant in para-12 of the case diary supported the allegation of demand of



dowry and torture for the same by the petitioners also as well as commission of dowry death by the petitioners. After investigation of the case, the police did not send up the petitioners for trial, however, the learned Magistrate disagreed with the police report and issued process to face trial against the petitioners also by the impugned order dated 24.03.2011 passed in Sessions Trial No.694 of 2010 arising out of Pipra P.S.Case No.40 of 2008.

4. Learned counsel for the petitioners submits that the postmortem report would reveal that the Doctor found 91% burn injury on the person of the deceased and a victim, who had sustained more than 80% burn injury, would not be in a position to speak and talk with anyone. Moreover, the FIR bears L.T.I. of the victim without any certificate of the Doctor that she was mentally and physically fit to make statement. As such, whole prosecution case appears to be a concoction after death of the victim. His further contention is that other witnesses stated before the police that only the husband and mother-in-law were involved in demand and torture vide para-13,14,25,26,27,28 and 29 etc. of the case diary. Therefore, majority of the witnesses had deposed before the police that the petitioners were not involved in the occurrence alleged.



5. The law is well settled that at this stage, meticulous appreciation of evidence is not permissible nor the prosecution evidence can be weighed as to who of the witnesses are more reliable than others. Moreover, once the Magistrate has exercised his power consistent with the material on the record, it cannot be interfered with at this stage only for the reason that a different view is also possible on the basis of same material. Hence, I do not find any merit in this application under Section 482 Cr.P.C. Accordingly, it stands dismissed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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