

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.672 of 2019

Arising Out of PS. Case No.-198 Year-2016 Thana- SOHSARAI District- Nalanda

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1. Deepak Kumar Son of Kameshwar Ram
 2. Kameshwar Ram @ Kameshwar Prasad Son of Late Harinandan Ram
 3. Chandravati Devi Wife of Kameshwar Ram
 4. Manish Kumar Son of Kameshwar Prasad
 5. Kanchan Kumari D/O- Kameshwar Prasad
All resident of Chandrapur Bela, P.S.- Jakkanpur, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Deptt., Govt. of Bihar, Patna
2. Ramkeshwar Ram Son of Late Ramswaroop Ram Resident of Sahokar, New Pani Tanki, P.S.- Sohsarai, District- Nalanda

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajnandan Kumar, Advocate
For the State	:	Mr. M. Nasrul Huda Khan, SC-1
For Respondent no.2	:	Mr. Krishna Prasad Singh, Sr. Advocate Mr. Saket Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 14-05-2019

Heard Learned counsel for the petitioners,

learned counsel for the State and learned senior counsel

appearing for respondent no.2.

2. This application under Articles 226 and 227 of the Constitution of India has been filed for quashing the criminal prosecution initiated against the petitioners vide Sohsarai P.S. Case No.198 of 2016.

3. The aforesaid Sohsarai P.S. Case No.198 of 2016 was registered on the basis of a written report submitted



by respondent no.2 on 27.11.2016 under Section 304B read with Section 34 of the Indian Penal Code (for short 'IPC').

4. Learned counsel appearing for the petitioners submitted that the prosecution case is based on false and fabricated allegations. The marriage of Deepak Kumar with the daughter of the informant, namely, Preeti Kumari was performed on 10.03.2016. Her brother came to the matrimonial home and took her to Naihar on 08.11.2016. The alleged victim committed suicide while she was in her Naihar on 26.11.2016. Prior to the suicide, no complaint whatsoever was made in respect of any sort of cruelty committed upon the deceased. The alleged suicide note also reflects that the victim was never subjected to cruelty for non-fulfillment of demand of dowry. He contended that in the background of the allegation mentioned in the FIR, the prosecution of the petitioners would be an abuse of the process of the court.

5. Per contra, learned counsel appearing for the State submitted that there is specific allegation in the FIR that the daughter of the informant was being subjected to mental and physical cruelty by the accused persons in her Sasural for non-fulfillment of demand of dowry. All efforts taken by the informant to persuade the accused persons not to coerce the



victim had failed. It is also alleged that it is because of mental and physical torture meted out to the daughter of the informant, she committed suicide. He contended that the allegations made in the FIR was supported in course of investigation by the witnesses and finding the allegations made in the FIR to be true, charge-sheet has also been submitted pursuant to which cognizance has been taken by a Court of Magistrate for the offence punishable under Section 304B read with 34 of the IPC.

6. Mr. Krishna Prasad Singh, learned senior counsel appearing for respondent no.2 submitted that the defence taken by the petitioners has not been found true in course of investigation by the police. The police have submitted charge-sheet against the petitioners on the basis of the statements of the witnesses recorded under Section 161(3) of the Code of Criminal Procedure as also the other materials collected in course of investigation. Having considered the materials collected in course of investigation, the Court of Magistrate has found a prima facie case to be made out under Section 304B read with 34 of the IPC against the petitioners. According to him, in view of the materials collected in course of investigation, the petition deserves to be dismissed.

7. Having heard learned counsel for the parties



and perused the materials on record, I find that the informant has alleged in the FIR that on 10.03.2016 his daughter Preeti Kumari was married to the petitioner no.1 Deepak Kumar. In the marriage, he had given a Hyndai I 10 car and other articles worth rupees eight lacs fifty thousand as gift. After marriage, his daughter was being subjected to cruelty by her husband Deepak Kumar, father-in-law Kameshwar Prasad, sister-in-law Kanchan Kumari, brother-in-law Manish Kumar and the mother-in-law. On coming to know about the cruelty being meted out upon his daughter, he went to her Sasural and tried to persuade them. He thought that situation would improve gradually, but the situation did not improve. Ultimately, his daughter committed suicide, as she was being subjected to cruelty for non-fulfilment of dowry. He has further stated in his written report that the suicide note of his daughter is self speaking and would reveal that she committed suicide due to harassment caused to her in her sasural.

8. After institution of the FIR, the investigating officer recorded the statements of the witnesses and finding the allegations made in the FIR to be true submitted charge-sheet in the court of Chief Judicial Magistrate, Nalanda under Section 304B read with 34 of the IPC vide Charge-sheet No.108 of



2018 dated 15.06.2018. Altogether nine persons have been cited as witness in the report submitted under Section 173(2) Cr.P.C.

9. On perusal of the materials collected in course of investigation and the charge-sheet, the learned Chief Judicial Magistrate, Nalanda took cognizance of the offence punishable under Section 304B read with 34 of the IPC vide order dated 15.09.2018 and summoned the petitioners finding a prima facie case to be made out against them.

10. In view of the materials on record, at this stage, it cannot be stated that even if the entire allegations made in the FIR are believed to be true at their face value, no cognizable offence is made out. Once the allegations made in the FIR do attract ingredients of a cognizable offence, no illegality can be found in the action of the police whereby they have registered the FIR and took up investigation.

11. In course of investigation, if the witnesses have supported the allegations made in the FIR in their statements made under Section 161(3) of the Cr.P.C., no illegality can be found in the action of the investigating officer whereby he has filed charge-sheet before the court.

12. Having gone through the materials on record if the learned Chief Judicial Magistrate has found a prima facie



case to be made out for the offence punishable under Section 304B read with 34 of the IPC, no illegality can be found with the order passed by the court below.

13. In that view of the matter, I see no merit in this application. It is dismissed accordingly.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
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