

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21727 of 2019

Arising Out of PS. Case No.-184 Year-2017 Thana- UJIYARPUR District- Samastipur

1. MUNNA JHA Son of Ramashray Jha @ Ramshrey Jha Resident of Village-Dhamua Chouk Bishari Asthan @ East Dhamua Pataili, P.S.-Ujiyarpur, District-Samastipur.
2. Ramashray Jha @ Ramshrey Jha Son of Late Ram Narayan Jha Resident of Village-Dhamua Chouk Bishari Asthan @ East Dhamua Pataili, P.S.-Ujiyarpur, District-Samastipur.
3. Satendra Jha Son of Ramashray Jha @ Ramshrey Jha Resident of Village-Dhamua Chouk Bishari Asthan @ East Dhamua Pataili, P.S.-Ujiyarpur, District-Samastipur.
4. Usha Devi Wife of Ramashray Jha @ Ramshrey Jha Resident of Village-Dhamua Chouk Bishari Asthan @ East Dhamua Pataili, P.S.-Ujiyarpur, District-Samastipur.
5. Sabita Devi Daughter of Ramashray Jha @ Ramshrey Jha Resident of Village-Dhamua Chouk Bishari Asthan @ East Dhamua Pataili, P.S.-Ujiyarpur, District-Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Surya Kant Mishra
For the Opposite Party/s : Mr.Raj Ballabh Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 08-04-2019 Heard learned counsels for the parties.

The petitioners being the brothers-in-law, father-in-law, mother-in-law, and wife of the victim are apprehending arrest in a case registered for the offences punishable under Sections 302 and 328/34 of the IPC wherein, on conclusion of investigation, final form was submitted treating the case as mistake of fact but differing with the final report, the learned



SDJM, Dalsinghsarai has taken cognizance for the offences punishable under Section 306 of the IPC.

The prosecution case as per the written report of Ajay Kumar Pandey submitted to the SHO, Ujiyarpur Police Station is to the effect that the informant's son namely Kripanath Pandey (victim) was married to Savita Devi (petitioner no. 5) about two and half years prior to the lodging of the case. The daughter-in-law of the informant remained at her matrimonial house for a year and thereafter, due to termination of immature pregnancy, she started living at her parent's house. The son of the informant was working at Goa in a private firm and whenever he used to come home, used to visit the in-laws family. Since last two and half months, the in-law family members did not allow the victim to meet his wife. On 15.10.2017, the informant's son went to meet his wife but on the same day at 10 A.M., the informant's brother-in-law informed him on mobile phone that the son of the informant has been killed by administering poison. Thereafter, the informant reached to the in-laws' house of his son and found his son dead, leading to registration of FIR against the petitioners.

It is submitted by learned counsel for the petitioners that from bare perusal of the FIR, only on the basis of suspicion, the



accusation has been levelled. On conclusion of investigation, the final report was submitted. The petitioners were not sent up for trial, however, the learned SDJM, after differing with the final report, took cognizance under Section 306 of the IPC. It is further submitted that admittedly, the informant is not the eye witness to the alleged occurrence. During investigation, it appeared that the victim consumed poison and on the date of occurrence, he tried to contact his wife nine times on her mobile phone and the FIR has been lodged after cremation with a well thought prosecution narrative. Statement has been made in paragraph 3 of the petition that the petitioners are not having any criminal antecedent.

Learned counsel for the State submits that the accusation has been levelled against the petitioners in the background of strained relationship between the parties and finding prima facie case, the learned Magistrate has taken cognizance under Section 306 of the IPC.

Considering the suspicious nature of accusation, the fact that the final report suggests that no external, particularly, resisting injury has been found on the body of the victim and that the final report was submitted without obtaining the FSL report when the investigating agency has found it a case of



mistake of fact, as a result the petitioners were not sent up for trial, let the petitioners above named be released on anticipatory bail in the event of arrest or surrender within 12 weeks on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned SDJM, Dalsinghsarai in connection with Ujiyarpur P.S. Case No.184 of 2017 subject to the conditions laid down in Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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