

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1284 of 2017

Arising Out of PS. Case No.-1758 Year-2012 Thana- COMPLAINT CASE District- Banka

1. Bilashani Devi Wife of Subodh Chandra Choudhary,
2. Subodh Chandra Choudhary, Son of Late Dewan Choudhary,
3. Ajit Kumar Choudhary, Son of Subodh Chandra Choudhary, All resident of village - Kharhara, Police Station Barahat, District - Banka

... .. Petitioner/s

Versus

1. State Of Bihar
2. Most. Meena Devi, Wife of Late Jagdish Prasad Jha, resident of village - Motiya, P.S. Godda, District - Banka

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shivendra Kumar Sinha, Adv
For the Opposite Party/s : Mr. Ram Priya Saran Singh, APP

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

6 09-05-2019 Heard learned counsel for the petitioners, learned counsel for the OP No. 2 as well as learned APP.

2. Petitioners have challenged the order dated 18.10.2016 whereby and whereunder they have been summoned to face trial for an offence punishable under Sections 304(B)/34 IPC by the learned Chief Judicial Magistrate, Banka in connection with Complaint Case No. 1758©/ 2012.

3. Before coming to the main issue, the salient feature emerging out from perusal of the record is to be perceived first.

4. Initially, OP No.2 had instituted Banka(Barahat) PS Case No. 402/2011 against these petitioners along with others putting an allegation that petitioner no.3, husband with



whom deceased was married about six years and has begotten a daughter, namely, Pallavi three years ago, faced torture at the end of her husband, mother-in-law, father-in-law on account of non fulfillment of demand of dowry to the tune of Rs. 50,000/- and further, in the aforesaid background, she had been done to death and her dead body has been disposed of, investigated upon and concluded by way of filing of police report contesting, the allegation to be false as the deceased was suffering from kidney disease since before and was properly treated even then, could not survive and, with ulterior motive, this case has been instituted.

5. Meanwhile, a protest petition has been filed whereupon, after acceptance of the final report, the protest petition was converted as complaint case no. 1758©/ 2012 wherein OP No.2 was examined on SA, witnesses were examined under Section 202 of the CrPC and after concluding the same, vide order impugned, petitioners have been summoned to face trial, subject matter of instant petition.

6. It has been submitted at the end of the petitioners that whatsoever allegations have been attributed been are palpably false because of the fact that apart from having substantiated by way of supplementary affidavit, the relevant



prescriptions, the treatment having been facilitated to the deceased over her nature of ailment by reputed hospitals, IGIMS, PMCH, as well as other private hospital i.e. Shyamal Hospital, at local level (Bhagalpur) had been properly investigated by the police and then, the investigation ultimately concluded by way of submission of final report, and that situation still survives whereupon, the order impugned did not justify its prevalence.

7. Apart from this, it has also been submitted that from plain reading of the complaint petition, the ulterior motive of the complainant is found very much exposed in the background of the fact that the daughter of deceased, namely, Pallavi is still along with the petitioners, being properly cared of coupled with the fact that during course of SA derecognizing the allegation having under the complaint petition that the dead body has been made to disappear, is found completely smashed as the informant herself admitted funeral having been taken place in her presence and so, the cumulative effect does not justify the order impugned.

8. On the other hand, learned APP along with learned counsel for OP No.2 has submitted that the order impugned is just, legal and proper. It has also been submitted that whatever



prescriptions have been adduced at the end of petitioners, at the present moment could not be relied upon as the veracity, genuineness of the aforesaid documents is subject to trial. So far materials are concerned, during course of inquiry the witnesses have identified the petitioners to be the perpetrator of the crime and to justify the same, also placed photo copy of the certified copy of the depositions of the relevant witnesses including the SA.

9. After going through the same, it is apparent that so far petitioners no.1 and 2 are concerned, there happens to be omnibus allegation. Consequent thereupon, the order impugned relating to them, that means to say, Bilashani Devi (mother-in-law) and Subodh Chandra Choudhary (father-in-law) are hereby, set aside. Instant petition, to their interest, is allowed.

10. So far petitioner no.3, Ajit Kumar Choudhary (the husband) is concerned, prayer is rejected.

(Aditya Kumar Trivedi, J)

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