

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.857 of 2018

Arising Out of PS. Case No.-1597 Year-2006 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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1. Md. Nazim and Ors S/o Md. Halim,
 2. Md. Suthre @ Suthre @ Md. Wasim Both the Sons Md. Halim,
 3. Hamida Khatoon W/o Halim,
 4. Md. Halim S/o Late Abdul Latif All R/o Village- Fazilpur Baghauni, P.S.-
Waini Tajpur District- Samastipur.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Asma Khatoon W/o Md. Abul, R/o Village- Bhagwanpur Khujri, P.S.-
Baligaon, District- Vaishali.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md. Harun Quareshi, Adv.
For the Opposite Party/s : Mr.Sri Akshay Lal Pandit, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
CAV JUDGMENT

Date : 17-05-2019

Heard learned counsel for the parties.

Petitioners, by means of this application under section 482 of the Code of Criminal Procedure, has invoked the inherent jurisdiction of this Court with prayer to quash the order dated 27.04.2016 and 19.10.2016, passed in S.T. No. 173 of 2016 (arising out of Complaint Case No. C-1597 of 2006) by the learned Sessions Judge, Vaishali, whereby and whereunder charges have been framed against the petitioners under sections 304B/34 and 120B of the Indian Penal and the amendment of charge petition filed by the petitioners has been rejected.

Facts of the case, in short, is that one Asma Khatoon filed a complaint alleging dowry death of his daughter



and on the basis of which Baligaon P.S. Case No. 33 of 2005 has been registered against ten accused persons for the offence under sections 304B and 120-B of the Indian Penal Code. Police after investigation submitted final report showing the case is false and thereafter on the basis of protest petition, a complaint Case No. 1597 of 2006 has been registered against the petitioners and others under sections 304B and 120B I.P.C. During trial, charge was framed on 27.04.2016 which is under challenge.

Learned counsel for the petitioners submits that petitioner No.1 is husband, petitioner No.2 is brother in-law and petitioner Nos. 3 and 4 are mother-in-law and father-in-law of the deceased. They are innocent and have not demanded any dowry nor assaulted the deceased in any way. In fact, the deceased was pregnant of six months and due to acute pain she died during course of treatment, this fact is evident from the medical prescription which is at Annexure-2. However, police after investigation submitted final form showing the case false but the learned Magistrate -1st Class, Hajipur has taken cognizance under Section 304B and 120B of the Indian Penal Code against the petitioners. Thereafter the learned Sessions Judge, Vaishali without appreciating the facts has rejected the petition of amendment of charge filed by the



petitioners 19.10.2016. On basis of the aforesaid submissions, learned counsel submits that the learned trial Court has erred in rejecting the petition of amendment of charge filed by the petitioners, and as such, the same is fit to be quashed.

Considering the facts and circumstances of the case, the materials available on record and the submissions advanced on behalf of the parties, in view of the fact that the order passed by the Court below rejecting the petition of amendment of charge filed by the petitioners is a revisable order and petitioners have an alternative remedy of moving the revisional Court, this Court is not inclined to interfere in the matter under its extra ordinary jurisdiction under section 482 of the Code of Criminal Procedure. The prayer for quashing the order rejecting the petition of amendment of charge as also the entire criminal proceeding is, therefore, rejected.

The application, accordingly, stands dismissed.

(Arvind Srivastava, J)

Brajesh/-

AFR/NAFR	
CAV DATE	02.05.2019
Uploading Date	22.06.2019
Transmission Date	

