

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9951 of 2016

Arising Out of PS. Case No.-765 Year-2014 Thana- SHASTRINAGAR District- Patna

1. Bhola Bind, Son of Barudan Bind

2. Barudan Bind, Son of Nathun Bind

Both are resident of village – Salempur, Dumra, Beldari Tola, Khagari, P.S.
Shastri Nagar, District – Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 7615 of 2016

Arising Out of PS. Case No.-765 Year-2014 Thana- SHASTRINAGAR District- Patna

Dilip Bind, Son of Barudan Bind, Resident of Village - Salempur Dumra,
Beldari Tola, Khagari, P.S.- Shastri Nagar, District - Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 9951 of 2016)

For the Petitioner/s : Mr.Vijay Kumar Sinha

For the Opposite Party/s : Mr.U.S.P.Singhapp

(In CRIMINAL MISCELLANEOUS No. 7615 of 2016)

For the Petitioner/s : Mr.Vijay Kumar Sinha

For the Opposite Party/s : Mr.U.S.P Singh App

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

14 21-08-2019

Heard learned counsel for the petitioners and learned

APP for the State.

The petitioners in Cr. Misc. No. 9951 of 2016, being



the father and brother of the husband of the victim and petitioner in Cr. Misc. No. 7615 of 2016, being the husband of the victim, are apprehending their arrest in a case registered for the offences punishable under Sections 498A, 304B and 201 of the Indian Penal Code.

Both the aforesaid bail applications are pending before this Court since 2016.

Since initially complaint being Complaint Case No. 164C of 2011 was filed before the learned CJM, Nalanda, Biharsharif, thereafter, Rahui (Bena) P.S. Case No. 293 of 2013 was registered after the complaint being transferred under Section 156 (3) of the Cr.P.C. to Rahui P.S. but since the place of occurrence falls within the territorial jurisdiction of Patna District, the entire records of the case was transmitted to the S.S.P., Patna. Consequently, Officer-in-Charge, Shastrinagar Police Station received records of Rahui (Bena) P.S. Case No. 293 of 2013 through the S.S.P., Patna vide Memo No. 2080 dated 08.07.2014 which suggested that one Amiraki Devi filed Complaint Case No. 164C of 2011 in the Court of learned Chief Judicial Magistrate, Nalanda, Biharsharif which came to be registered as Rahui (Bena) P.S. Case No. 293 of 2013 for the offences under Sections 498A, 304B and 201 of the Indian



Penal Code.

Prosecution case is that on 18.05.2007 Rekha Devi, the daughter of the complainant, Amiraki Devi was married with Dilip Bind (petitioner in Cr. Misc. No. 7615 of 2016), but subsequent to the marriage, further dowry demand of a motorcycle and Rs.25,000/- was made and due to non-fulfillment of the same, torture was inflicted upon her. On 10.05.2011, the daughter of the complainant was driven out from the matrimonial house, but subsequently on 12.06.2011, the accused persons took back the daughter of the complainant to her matrimonial house. On 25.09.2011, the complainant went to the matrimonial house of her daughter but she did not find her when the village people conveyed the complainant that the accused persons had killed the daughter of the complainant on 12.09.2011. On 26.09.2011 the complainant went to police station to lodge the case but the Officer-in-Charge declined to lodge the case, consequently the complaint was filed.

It is submitted by learned counsel for the petitioners that the FIR of Shastrinagar P.S. Case No. 765 of 2014 has been registered on the basis of self statement of Ramesh Kumar Singh, Inspector -cum- Station House Officer of Shastrinagar Police Station wherein the facts of Complaint Case No. 164C of



2011 and the FIR of Rahui (Bena) P.S. Case No. 293 of 2013 have been mentioned. Though there was no need to register a fresh FIR on the basis of self statement of S.H.O., Shastrinagar Police Station whereas the FIR of Rahui (Bena) P.S. Case No. 293 of 2013 ought to have been transmitted to learned Magistrate at Patna. It is further submitted that on conclusion of the investigation, charge sheet has been submitted under Section 306 of the Indian Penal Code, wherein, it has transpired that the victim Rekha Devi had extra marital affairs with some other boy and due to that she committed suicide. However, marriage between Dilip Bind and Rekha Devi admitted.

Learned APP, however, submits that the FIR of Rahui (Bena) P.S. Case No. 293 of 2013 and Complaint Case No. 164C of 2011 was transferred to the S.S.P., Patna, who consequently transferred it to Station House Officer, Shastrinagar Police Station and ultimately on conclusion of investigation charge sheet has been submitted under Section 306 I.P.C. and the thrust of accusation is against the husband of the victim, the petitioner, Dilip Bind.

Considering the rival submissions of the parties, it appears that S.H.O., Shastrinagar Police Station got his self statement recorded and treating it as FIR, transmitted it to the



learned Magistrate, Patna but did not transmit the original Complaint Case No. 164C of 2011 and FIR of Rahui (Bena) P.S. Case No. 293 of 2013 to the learned Magistrate at Patna. It further appears that the victim died within four years of the marriage. The complaint was filed in 2011 whereas Rahui (Bena) P.S. Case No. 293 of 2013 was registered on 05.11.2013 when the present anticipatory bail applications were registered on 26.02.2016 and 15.02.2016. This Court is not inclined to decide the question of non-registration of FIR on the basis of the FIR of Rahui (Bena) P.S. Case No. 293 of 2013 in the present proceeding. The petitioner is at liberty to agitate the said issue in appropriate proceeding.

Considering the fact that the thrust of accusation is against the husband of the victim, Dilip Bind, petitioner in Cr. Misc. No. 7615 of 2016, this Court is not inclined to grant him anticipatory bail.

Accordingly, the prayer for anticipatory bail of petitioner Dilip Bind (Cr. Misc. No. 7615 of 2016) is rejected.

So far petitioners of Cr. Misc. No. 9951 of 2016 Bhola Bind and Barudan Bind is concerned, since they are brother and father of the husband of the victim and the accusation is not specific against them, let the above named



petitioners of Cr. Misc. No. 9951 of 2016 be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Ist Class, Patna in connection with Shastrinagar P.S. Case No. 765 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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