

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 3594 of 2015

Arising Out of P.S. Case No.-20 Year-2006 Thana- SONEPUR District- Saran

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1. Sanjay Singh, Son of Late Ramashankar Singh Resident of Village-Chiriya Bazar Sonepur, P.S-Sonepur, District-Saran.
 2. Uday Singh @ Munna Singh @ Uday Pratap Singh Son of Late Ramashankar Singh, Resident of Village - Chiriya Bazar Sonepur, P.S.- Sonepur, District – Saran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prasant Kumar Shahi, Sr. Advocate

Mr. Anirudh Kumar Sinha, Advocate

For the Opposite Party/s : None

For the State : Mr. Jharkhandi Upadhyay, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 21-06-2019

Heard Mr. P. K. Shahi, learned senior counsel assisted by Mr. Anirudh Kumar Sinha, learned counsel for the petitioners and learned APP for the State.

2. The petitioners have moved the Court under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the ‘Code’) for the following relief:



“That this application is directed against the order dated 11.11.2014 passed by the 3rd Addl. Session Judge Saran in Sessions Trial No. 513/2009 arising out of Sonapur, P.S. Case No. 20/2006 u/s 302 and 379 of the Penal Code by which he has rejected the application of the petitioner for discharge u/s 227 of Cr.P.C.”

3. Sonapur PS Case No. 20 of 2006 was lodged against unnamed persons by the brother of the deceased with regard to his body being recovered from the office in a sitting position. During investigation, various persons were suspected of involvement. The wife and the informant filed protest petition with regard to unsatisfactory police investigation but nowhere the complicity of the petitioners was even whispered. Suddenly, it appears that the statement of the wife and the informant was recorded before the Court under Section 164 of the Code in which, for the first time, she has raised suspicion that a few days prior to death, there was some dispute with the petitioners and the deceased relating to the overhead electricity line and the petitioners being the next door neighbours, suspicion was raised against them also.

4. Learned counsel for the petitioners submitted that except for the statement of the wife of the deceased under Section 164 of the Code, no material has come during investigation to justify the police submitting charge sheet based upon which



cognizance was taken and even the application filed under Section 227 of the Code has been rejected.

5. Learned counsel submitted that the informant who is brother of the deceased neither in the FIR nor his re-statement at paragraph no. 142 of the case diary, has even raised any shadow of doubt or suspicion against the petitioners nor another brother of the deceased in his statement before the police recorded at paragraph 146 of the case diary has said anything with regard to the involvement of the petitioners. It was submitted that initially even the wife of the deceased in her statement before the police recorded on 11.03.2006 at paragraph no. 105 of the case diary, had not raised any doubt or suspicion against the petitioners of their involvement in the death of her husband which occurred on 21.02.2006. However, later, in her re-statement to the police recorded on 11.07.2006 at paragraph no. 255 of the case diary, she has taken the name of the petitioners and few others also and against the petitioners, it has only been stated that the petitioners being co-villagers were also behind the murder of her husband. Learned counsel submitted that surprisingly on 24.03.2006, in the statement recorded by her in the Court on 12.01.2007, under Section 164 of the Code, which is reproduced at paragraph no. 366 of the case diary, she has further developed her story and has



stated with regard to the petitioners that they were neighbours and there was dispute sometime back with regard to overhead electric wire and that the petitioners had threatened the deceased that during his life time, they would not allow such wire to be removed or any building to be constructed on the land.

6. Learned counsel further submitted that in the postmortem, the Medical Board has not found any external or internal injury on the body of the deceased. Learned counsel submitted that the body was recovered in a sitting posture from the office of the Railways where the deceased was working as an Accountant. It was, thus, submitted that the petitioners being private persons were having no access to the office of the Railways from where the body of the deceased was recovered and they have been falsely implicated only because of some alleged dispute, being next door neighbours, relating to removal of the overhead wire passing from the area. It was submitted that during the entire investigation where many witnesses have been examined, none, including the brothers of the deceased have raised even a shadow of doubt or suspicion against the petitioners with regard to their involvement in the death of the deceased. Learned counsel submitted that even if it is believed that there were some differences between the deceased and the petitioners relating to



passing of an overhead electric wire, it cannot be believed that such dispute would be enough for the petitioners to commit the crime for killing the deceased.

7. Learned APP, upon going through the case diary, especially paragraphs no. 105, 142, 146, 255 and 366 fairly submitted that the statements made by the petitioners regarding the statement of the witnesses recorded in those paragraphs were correct. Further, he also fairly admitted that against the petitioners, no other witness has raised any doubt or suspicion with regard to their involvement. Learned APP further submitted that repeatedly it has come that the deceased was also lending money to his colleagues and other persons and there was dispute relating to such transaction but the same is not attributed to the petitioners.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that on a mere suspicion raised to by the wife of the deceased and most importantly, after having developed her story thrice, twice before the police and finally before the Court, with regard to raising suspicion about the complicity of the petitioners in the death of her husband and the same also being limited to an altercation with regard to passing of an overhead electric wire, in the considered opinion of the Court is too tenuous a connection to



justify the petitioners to face trial in the present case. At this stage, the Court would only observe that had suspicion with regard to the involvement of the petitioners come at the initial stage from any source, the matter may have been different.

9. However, from the said allegations coming only from the wife, in the background that on 11.03.2006, while making a statement to the police she has not raised any doubt with regard to the petitioners and only on 11.07.2006, she has made a bald statement with regard to the petitioners and others also by stating that they were involved in the death of her husband and thereafter on 12.01.2007, while getting her statement recorded before the Court she has stated with regard to there being an altercation between the petitioners and the deceased in the past with regard to running of overhead electric wire, clearly puts such allegation/ statement of the wife of the deceased in the category of being highly doubtful.

10. For the purposes of making anybody to face trial, such vague, bald and highly doubtful statement, that too, made at three different points of time and all three statements being different, which further remains uncorroborated from any other source, clearly cannot be a ground to justify the petitioners being put on trial. The Court would also not lose sight of the fact that the



petitioners are next door neighbours and as per the allegation made by the wife of the deceased, there was some construction being made by the deceased over his land and there was an overhead electric wire going, for which he had made an application for its removal and which was opposed by the petitioners, such conduct of the wife of the deceased taking the name of the petitioners at such a late stage, without their being any support from any other quarter, including the two brothers of the deceased, also strongly suggests the fact that the implication is not *bona fide*.

11. Once the Court has found, in the background of whatever material has come till now, that the involvement of the petitioners are highly doubtful and there are strong circumstances of their name being taken for oblique reason i.e., because they are opposing some removal of overhead electric wire and there being no corroborative evidence from any quarter with regard to such suspicion raised, clearly a case for interference under Section 482 of the Code, for preventing the abuse of the process of the Court, is made out.

12. For the reasons aforesaid, the application is allowed. The order dated 11.11.2014, by which the application filed by the petitioners for discharge under Section 227 of the Code has been



rejected is set aside. Accordingly, the petitioners stand discharged from trial in Sessions Trial No. 513 of 2009, arising out of Sonapur P.S. Case no. 20 of 2006. However, this shall not restrict the course of law, if in future, any relevant/reliable material comes to indicate/suggest the involvement of the petitioners in the death of the deceased in the present case.

(Ahsanuddin Amanullah, J.)

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