

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73270 of 2018

Arising Out of PS. Case No.-100 Year-2016 Thana- ANDHRATHARHI District- Madhubani

Mithilesh Jha, son of Devendra Jha, resident of Village-Tharhi, Police
Station-Andhratharhi in the Distt. of Madhubnani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Soni Srivastava, Advocate

For the Opposite Party/s : Mr. Sri Arun Kumar Singh -5

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 25-06-2019

The petitioner, who is the husband of the deceased seeks quashing of the order dated 25.10.2018 passed by the learned Additional Sessions Judge, Jhanjharpur in connection with Andhratharhi P.S. Case No. 100 of 2016 whereby the petition preferred on behalf of the petitioner for discharge has been rejected.

Ms. Soni Srivastava, learned advocate for the petitioner has challenged the order on several counts: few of them being; (a) the bare reading of the F.I.R indicates that it has been written or caused to be written by somebody else and not the deceased; (b) the



postmortem report indicates that the deceased was heavily engulfed in fire and therefore it was not possible for her to make any statement about the injuries which ultimately led to her death; (c) during the course of investigation, neighbours and independent witnesses have not supported the prosecution version and have raised doubts about the accusation against the petitioner; (d) the order impugned does not refer to any material justifying the rejection of the petition seeking discharge and finally; (e) none of the witnesses have categorically stated that the deceased was doused by fire at the hands of the petitioner.

The aforesaid grounds have been noted in the order only to be rejected.

The postmortem report does not state anything which could give a presumption that the deceased was not in a position to speak sometimes prior to her death. Merely because there is a mismatch of the gender in the body of the F.I.R, it would be wrong to form a conclusive



opinion that the F.I.R was drafted or written by somebody else. Merely because some of the witnesses have not spoken in favour of the prosecution version, that cannot be a ground for discarding the case of the prosecution, specially at the pre-trial stage. The defence taken by the petitioner that the deceased set herself on fire because of disturbed matrimonial life cannot be accepted without a demur at this stage.

All the grounds that have been raised by the petitioner could be tested only in the trial.

This Court finds no reason to interfere with the order refusing to discharge the petitioner.

The petition stands dismissed.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
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