

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 47979 of 2014

Arising Out of P.S. Case No.-143 Year-2012 Thana- JALALPUR District- Saran

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1. Rana Pratap Singh @ Rana Singh, S/o Late Harnath Singh
 2. Ranjit Kumar Singh S/o Late Harnath Singh
 3. Sushila Devi @ Kaushalya Devi, W/o Late Harnath Singh, All R/o Village G.S. Bangra, P.S. Jalalpur, District Saran, At present residing at 27/10 C.P.T. Hide Road, Kolkata- 700043.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Harendra Singh, S/o Late Ram Ujiyar Singh, R/o Village- Sanhalpur, P.S. Bheldi, District Saran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Singh, Advocate
For the State	:	Mr. B. N. Pandey, A.P.P.
For the Opposite Party No. 2	:	None.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 05-03-2019

Heard learned counsel for the petitioners and learned A.P.P. for the State.

2. Despite service of notice on opposite party no. 2, nobody appeared on his behalf when the matter was taken up and heard.

3. Learned counsel for the petitioners submitted that the petitioner no. 1 has died on 05.09.2017 and such fact has been brought on record in the supplementary affidavit filed on behalf of the petitioners enclosing the death certificate of petitioner no. 1.



4. In view of the aforesaid, the application is restricted to petitioners no. 2 and 3.

5. 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, is an application for quashing the order dated 15.01.2014 passed by Learned Chief Judicial Magistrate G.R. 5209 of 2012, arising out of Jalalpur P.S. Case No. 143 of 2012, whereby and where under the Learned Chief Judicial Magistrate, Saran, has taken cognizance against the Petitioners under section 304 (B), 201 and 34 of the Indian Penal Code, 1860, on wholly erroneous grounds by overlooking relevant and vital material available on record and ignoring the facts and circumstances of the case and also by considering the case as against the Petitioners and above all without considering the jurisdiction of filing the criminal case.”

6. The allegation in the complaint case filed by the opposite party no. 2, on 17.11.2012, which was sent for instituting an F.I.R. to the police under Section 156(3) of the Code giving rise to Jalalpur P.S. Case No. 143 of 2012, dated 18.11.2012 relating to an incident dated 14.11.2012, which took place at Kolkata in the State of West Bengal in which the daughter of the opposite party no. 2 died on 15.11.2012, as a result of burnt injury suffered by her late in the night of 14.11.2012. It is alleged that there was demand of dowry and torture and because of non fulfillment of the



same, the daughter of the opposite party no. 2 was burnt to death by the accused.

7. Learned counsel for the petitioners submitted that the marriage took place about five months prior to the incident and this itself would indicate the falsity of the allegation of the daughter of the opposite party no. 2, being burn to death. It was submitted that for a demand of dowry, such haste would not be shown and the accused would have waited for a reasonable time for the dowry to be fulfilled but could not take the extreme step of killing the daughter of the opposite party no. 2 within five months from the date of marriage. Learned counsel submitted that on 14.11.2012, when the daughter of opposite party no. 2 was preparing food for her husband i.e., petitioner no. 2, her dress caught fire due to which she was badly burnt and with the help of the husband i.e., the petitioner no. 2 and neighbours, she was taken to the hospital where in the presence of a doctor her statement was recorded in which she has stated that while preparing food, her dress caught fire due to which she was burnt. Learned counsel submitted that based on such statement, the Kolkata Police had informed the opposite party no. 2 through the officer-in-charge Veldi Police Station in the district of Saran for requesting him to be present for the inquest and postmortem of the



body of his daughter but he did not turn up. It was further submitted that the brother of the deceased i.e., son of the opposite party no. 2 was also telephonically informed by the Kolkata police of the incident with a request to be present during the time of inquest and postmortem but he declined on the pretext that his parents were ill. Learned counsel submitted that faced with the situation, the local police took permission of the Court on 22.11.2012 for holding inquest and conducting the postmortem which was done and thereafter when nobody turned up from the side of the deceased, the body was handed over to the husband i.e., petitioner no. 2, to perform the last rites at Kolkata. Learned counsel submitted that the allegation in the complaint that on reaching Kolkata, unknown persons had threatened the opposite party no. 2 not to file any case cannot be accepted as the natural conduct of a person would be to go to the higher police officials and lodge whatever complaint he had to lodge and being the father of the deceased girl, would not have been cowed down by any general threat from strangers. Learned counsel submitted that the inquest and postmortem was held on 22.11.2012, which was also videographed and, thus, all due precaution was taken by the Kolkata police in the matter. Learned counsel submitted that based on all such facts, the police had submitted the closure report which



has also been accepted by the Court at Kolkata. Learned counsel submitted that in such background, the present case has been filed clearly to exert pressure for oblique reasons. Learned counsel submitted that the present case, thus, is an abuse of the process of the Court and deserves to be quashed.

8. Learned A.P.P. submitted that on the basis of the investigation made by the police, the allegation against the petitioners having been found true, chargesheet was submitted and the Court has rightly taken cognizance. However, on a direct query of the Court with regard to the statement of the victim girl herself being recorded by the Kolkata police in presence of a doctor in which she has not raised any suspicion or made any allegation against the petitioners and further, the Kolkata police having informed the opposite party no. 2 and also the brother of the victim on telephone requesting them to come for the inquest and postmortem and they not doing so and thereafter, the same having been conducted after one week and the entire exercise being videographed, why the same should not be ignored, learned A.P.P. could not justify the same.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties and also taking note of the fact that despite valid service of notice, there is



no representation on behalf of the opposite party no. 2, the Court finds that a case for interference has been made out. As has rightly been pointed out by learned counsel for the petitioners, the entire investigation in Kolkata appears to have been in accordance with law after taking due precaution and with the permission of the Court. Initially, the police waiting for the inquest as well as postmortem and there being no complaint from any quarter or even the neighbourers and further they having made sincere efforts to not only inform the opposite party no. 2 but also calling him to be present at the time of inquest and postmortem and such request also being made to the brother of the complainant by the Kolkata police, which the opposite party no. 2 and his family members chose to ignore, and then the Kolkata police moving ahead with the inquest and postmortem and submitting closure report, which was accepted by the Court, in the considered opinion of this Court, leaves no reasonable scope of doubt in the present case. Moreover, in the presence of doctor in the hospital where the opposite party no. 2 was admitted, her statement being recorded and she only stating that while preparing food for her husband her dress caught fire, is a strong indicator that no foul play was involved. Further, the incident of occurring within five months of the marriage is too short a period for the accused to



have waited if at all there was a demand of dowry and torture, which strongly suggests that such extreme step of killing the girl is highly improbable and unnatural.

10. For reasons aforesaid, the application is allowed. The entire proceeding arising out of Jalalpur P.S. Case No. 143 of 2012 (G.R. No. 5209 of 2012/ Complaint Case No. 3765 of 2012), including the order taking cognizance dated 15.01.2014, as far as it relates to the petitioners no. 2 and 3, stand quashed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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