

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.61083 of 2018

Arising Out of PS. Case No.-5 Year-2018 Thana- KAUWAKOL District- Nawada

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Krishna Prasad Yadav, S/o Raghu Prasad Yadav, Resident of Village- Sarauni,
P.S.- Kawakol, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar.

2. Dinesh Ray,

3. Deep Narayan Ray,

Both opp. parties Nos. 2 & 3 are sons of Late Yogendra Ray,

4. Asha Devi, W/o Dinesh Ray,

All opp. parties Nos. 2 to 4 are resident of Village- Marai Chowk, P.S.-
Hajipur, District- Vaishali.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Adv.

For the O.P. Nos. 2-4 : Mr. Ranjeet Kr. Singh, Adv.

For the State : Mr. Kalyan Shankar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 13-02-2019 The accused persons, who are opposite party Nos.

2 to 4 here, are sought to be prosecuted at the instance of

the father of the deceased lady, who was married in the

family of the petitioners. The husband of the deceased was



suffering from some mental problem, who pre-deceased his wife. The deceased also died while staying with the father/informant. After some time of the death of the deceased, her father/informant filed a case with the allegation that he could lay his hands upon a video prepared by the deceased at the time of committing suicide. In the aforesaid video, it was shown that the petitioners had threatened the deceased of serious consequences in case she came to her matrimonial home for claiming any share in the property.

The submission made on behalf of the opposite parties/accused persons was that the aforesaid story put-forth by the informant was highly unbelievable and unacceptable as well.

Considering the vague nature of accusation, the opposite parties were granted anticipatory bail by this Court *vide* order dated 09.07.2018. Before granting the aforesaid concession, this Court recorded the submission made on behalf of the accused persons that there has been a partition in the family property under the supervision of Lok Adalat



and whichever property fell in the share of the husband of the deceased was handed over to her. However, by way of precaution, this Court granted liberty to the informant, who is the petitioner here, to approach this Court again, should any attempt be made by the accused persons of alienating any part of the family property, which normally should go to the next heir of the deceased, who, in the present case, is her daughter.

The present petition for cancellation of anticipatory bail of the opposite party Nos. 2 to 4 has been filed on the ground that despite such strict direction by this Court and the bail order being contingent on the accused persons not interfering with the property falling in the share of the deceased, certain part of the family property has been alienated/sold off.

On the aforesaid submission, this Court issued notice to the accused persons/opposite parties, who have appeared through a Counsel.

Today, an affidavit has been filed on behalf of the opposite parties/accused persons denying every such



allegation and with a specific averment that no part of family property has ever been alienated or sold off by the opposite parties/accused persons.

The petitioner ought to realize that the daughter of the deceased is required to be maintained, but this cannot be the mode of seeking maintenance for a daughter. *Prima facie*, the reasons ascribed for preferring this petition does not appear to be existent factually. This Court would have otherwise taken a serious view of the matter as this petition has been filed on wrong and unascertained facts, but keeping in mind that the whole effort of the informant is to obtain some benefit for the daughter of the deceased, nothing adverse is being recorded in the present order, except for dismissing this petition as being not based on correct facts.

For the aforesaid reasons, the petition is dismissed.

(Ashutosh Kumar, J)

Praveen-II/-

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