

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4477 of 2015

Arising Out of PS. Case No.-120 Year-2008 Thana- MAJHAULIA District- West Champaran

1. Bhikhari Sah S/o. Late Ganesh Sah,
2. Subodh Kumar @ Suboh Sah S/o. Bhikhari Sah,
3. Poonam Devi W/o. Subodh Sah
All R/o. Village- Amawaman Bazar, P.S. Majhaulia, District- West
Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Awadhesh Kumar Pandey, Advocate
For the Opposite Party/s :	Mr. Jharkhandi Upadhyay, APP
	Mr. Amitesh Kumar, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date : 25-06-2019

Heard learned counsel for the parties.

2. The petitioners are accused in connection with
Majhaulia P.S. Case No.120 of 2008, corresponding to Sessions
Trial No.567 of 2012.

3. Prayer of the petitioners for discharge under
Section 227 Cr.P.C. has been refused by the learned Additional
Sessions Judge-VI, Bettiah, by the impugned order dated
11.12.2014.

4. Submission of the learned counsel for the
petitioners is that charge sheet was submitted in this case against
the petitioners under Section 302, 201 and 120B of the Indian



Penal Code without any direct material on the record. The learned Court-below has ignored that in absence of sufficient material to proceed with the trial, continuance would be an abuse of the process of the Court.

5. According to FIR, the sister of the informant was married with co-accused Manoj Pratap about 14 years ago. The in-laws had expelled the victim from her matrimonial house and thereafter she took shelter to the house of her parents. Two days prior to her death, she was taken back to her matrimonial house by the informant. A panchaity was to be held on 5th of June to settle the discord in the family with the deceased because the in-laws were demanding motorcycle as further dowry which the parents were incapable to provide. When the informant reached for panchaity on 06.06.2008, he came to know that his sister Chunchun Devi was done to death by poisoning her and the dead body was being disposed of. However, in the meantime, the police came and half burnt body was sent for post mortem examination. The son of the informant supported the aforesaid allegation before the police; whereas other witnesses stated that the victim died of illness and her dead body was cremated in presence of the informant.

6. Submission of learned counsel for the petitioners



is that there is no presumption of dowry death against the petitioners since death was caused much after seven years of marriage. Moreover, the husband of the victim is not an accused in this case; rather he is a witness before the police and has stated that due to illness his wife died. Moreover, to put pressure this false case has been lodged against the petitioners.

7. Learned counsel for the State submits that the impugned order is clear enough to substantiate that the view of the Court-below is based on material on the record and at the stage of framing of the charge even suspicion based on the material on record is sufficient to ask the accused to face trial. His contention is that the statement of the witnesses, who have supported the case of the defence, would be considered at the appropriate stage of the trial and cannot be taken into consideration at the at the stage of framing of the charge.

8. Considering the facts that the reasons of the learned Court-below is based on material on the record, it cannot be interfered by this Court in exercise of power under Section 482 Cr.P.C. only for the reason that a different view is also possible on consideration of some other material brought on the record during investigation. The law is well settled that meticulous appreciation of evidence and weighing the reliability



of the evidence is not permissible at this stage.

9. Considering the entire facts and material, I do not find any reason to interfere with the impugned order and, accordingly, this application stands dismissed as devoid of any merit.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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