

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.56487 of 2018

Arising Out of PS. Case No.-116 Year-2017 Thana- GURARU District- Gaya

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Pramod Kumar Bharti, Son of Krishna Deo Bharti, Resident of Village
Raudamoth, P.S. Guraru, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ray Saurabh Nath, Adv.

For the Opposite Party/s : Mr. Khurshid Anwar, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 08-01-2019 Heard learned Seniouir counsel for the petitioner and

learned APP for the State.

The petitioner, being the husband of the daughter of
the informant is languishing in custody since 10.11.2017 in a
case registered for the offences punishable under sections
304B, 201, 120B/34 of the Indian Penal Code.

The prosecution case got initiated on the basis of
written report dated 09.11.2017 submitted by Bipin Kumar
Giri to the Station House Officer, Guraru Police Station to the
effect that the informant's daughter Kalyani Kumari was
married with the petitioner on 02.12.2010. But one month after
the marriage, further dowry demand of a car was made and for
non-fulfillment of the same, the torture was inflicted upon the
daughter of the informant. The victim was blessed with two



children out of the wedlock. It is further alleged that on 08.11.2017 at 5.30 P.M., the informant was informed that his daughter Kalyani Kumari is suffering from some ailment and immediately thereafter he was informed that she is dead. It was also conveyed to the informant that his daughter's dead body is being taken from Hazaribagh to native village for cremation. But on the way, the police intercepted the vehicle over which the petitioner was carrying the dead body of the victim.

It is submitted by learned Sr. counsel for the petitioner that as per own admission of the informant, the marriage of the victim was performed with the petitioner on 02.12.2010 when the victim died on 08.11.2017, hence, the case does not come within the preview of Section 304B of the I.P.C. Moreover, the informant came to know about the death of his daughter on 08.11.2017 at 5.30 PM, but the FIR was registered on 09.11.2017 at 5.00 PM. The post-mortem does not reflect any injury and cause of death has not been ascertained. Hence, the viscera has been preserved. Admittedly, there is no eye witness to the occurrence. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned counsel for the informant submits that the



petitioner was trying to dispose of the dead body of the victim and the victim has virtually been killed by the petitioner and other in-laws family members of the victim.

Learned APP for the State after going through the case diary submits that the petitioner, being the husband has killed the victim and he was being caught by the police while carrying the dead body through a vehicle for disposing it of. However, he further goes to submit that during investigation no direct evidence has been collected by the investigating agency.

The viscera report of the victim Kalyani Kumari has been transmitted by the office of the Director, FSL in connection with Guraru P.S. Case No.116 of 2017. However, it is surprising that along with the viscera report of the victim Kalyani Kumari, the viscera report of one Anju Devi in connection with Guraru P.S. Case No. 116 of 2014 has also been transmitted to this Court by the Director, FSL, Patna, which reflects the callous manner in which the office of the Director, FSL, Patna is functioning. However, the viscera report of the victim Kalyani Devi suggests that aluminum phosphate was detected which is a pesticide and is usually used as preservative of the grains.



Considering the rival submissions of the parties and in view the fact that the case does not come within the preview of Section 304B of the I.P.C. as the death occurred after seven years of marriage and there is no resisting injury found on the body of the victim during autopsy, hence, it cannot be said that pesticide was administrated to victim, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned CJM, Gaya, in connection with Guraru P.S. Case No. 116 of 2017.

Let the Court Master resealed both the viscera reports and returned it back to the concerned authority.

(Dinesh Kumar Singh, J)

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