

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79082 of 2019**

Arising Out of PS. Case No.-423 Year-2019 Thana- GOPALGANJ TOWN District-
Gopalganj

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Murlidhar Singh @ Dr. Murlidhar Singh, aged about 59 years, Male, Son of -
Late Sri Ramchandra Prasad Singh, Resident of Flat No. 401, Shyama
Shaswatam Ara Gardens Road, P.S.- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. PK Shahi, Senior Advocate with Mr. Sumeet Kumar Singh, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the Informant	:	Mr. Rama Kant Sharma, Senior Advocate with Mr. Lokesh Kumar Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 21-10-2020

The matter has been heard *via* video conferencing due to
circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. PK Shahi along with Mr. Sumeet Kumar
Singh, learned counsel for the petitioner; Mr. Jharkhandi
Upadhyay, learned Additional Public Prosecutor (hereinafter
referred to as the ‘APP’) for the State and Mr. Rama Kant Sharma,
learned senior counsel along with Mr. Lokesh Kumar Singh,
learned counsel for the informant.

3. The petitioner apprehends arrest in connection with
Gopalganj Town PS Case No. 423 of 2019 dated 29.08.2019,
instituted under Sections 302/34 of the Indian Penal Code.



4. The allegation against the petitioner, along with others, is of pouring oil on the father of the informant and burning him leading to his death.

5. Learned counsel for the petitioner submitted that he, at the relevant time, was the Chief Engineer, Irrigation Department, posted at Gopalganj and as per the allegation the deceased had come to his place and was called inside the room where all the accused were present and there the petitioner had asked his wife to bring oil and the others had held the deceased and oil was poured on him and he was set on fire. Learned counsel submitted that the very basis of such allegation is so absurd and unbelievable that no prudent person would believe that such an incident took place. It was submitted that as per allegation itself, the deceased was the contractor and had gone to the house of the petitioner for payment. Learned counsel submitted that even if it is expected that the payment was to be made by the petitioner, and it was not being paid for any reason, the petitioner being in his house-cum-residential office where there were many persons under him present, he could have easily directed the deceased either to go out or for him to be thrown out by his subordinates, but just because somebody comes seeking payment or raises a dispute, would not be enough ground to kill him in a manner as alleged in



the FIR. It was further submitted that even the wife being implicated by alleging that she had brought the oil for pouring it on the deceased shows the falseness of the allegation.

6. Learned counsel submitted that the matter was entrusted to the CID wing of the State Police and after a thorough investigation, it has clearly been established that the deceased had come alone on his motorcycle to the residence of the petitioner, which was being constructed, basically for taking back the remaining articles belonging to him. Learned counsel submitted that the place of occurrence, as described in detail by the police which had come soon after the incident, was the room near the boundary of the peon and not inside the residence of the petitioner. It was submitted that the description further reveals that there were marks of burning on the wall and other places and the room showed that the latch was broken from inside and there was foot mark on the door, indicating that it was broken open by kicking. It was submitted that the same clearly shows that the door was broken open as the deceased was inside and there was no other person found inside the room.

7. Learned counsel submitted that from the room a gallon for storing oil has been recovered in which petrol was found and, according to the investigation, it was of the size which fitted



into the dicky of the motorcycle of the deceased, which has also been recovered from the spot. Learned counsel submitted that even in the Post Mortem report, trace of petrol has been found, and there was no occasion for the petitioner to keep petrol in a gallon in his residence. It was contended that witnesses who have been examined have clearly stated that the deceased had come alone and that he had also dues with regard to work done by him. It was submitted that even on merit, the dues for the work which may have been done by the deceased was required to be cleared at the level of the Executive Engineer and not the petitioner who was the Chief Engineer and, thus, on this account also straightaway, the petitioner taking the drastic and extreme step of eliminating the deceased is absolutely unfounded and unbelievable. Learned counsel submitted that though the informant, who is the son of the deceased, claims that he was present at the place at the time of occurrence, neither was he the person who took the victim to the hospital nor are there any signs found on his person during investigation which would indicate that he had tried to save his father while he was burning, whereas on the other hand, witness Pankaj Kumar, who was the Accounts Clerk in the office of the Executive Engineer has stated that the door of the room had to be broken open and he was one of the persons who had wrapped the



victim in a blanket and had taken him out of the room and then on the official Scorpio vehicle of the petitioner, had taken him to the hospital and due to which his clothes bear the mark of carrying the victim and such clothes have been taken over by the police for being exhibited during trial.

8. It was further submitted that after proper and full investigation, the police have found it fit to submit charge-sheet under Sections 306 and 120B of the Indian Penal Code and not under Section 302 of the Indian Penal Code. Learned counsel submitted that it has also come during investigation that the petitioner, the Superintending Engineer and the Executive Engineer, on cry being raised by other witnesses and workers who were outside that smoke was coming out of the room, had rushed outside and then the door of the peon room on the boundary of the premises was broken down, which reveals that the victim was burnt inside and from where he was taken to the hospital and from the hospital the relatives of the victim were informed and upon coming, they had taken him to Gorakhpur but he could not be saved. Learned counsel submitted that very place of occurrence is totally at variance with what has been alleged in the FIR, that it was inside the residence of the petitioner, but the same having been found at the boundary of the premises in the peon room,



completely demolishes the prosecution story and, moreover, it is also surprising as to how the informant, if he was waiting outside, was able to know who all were in the room when his father was called and what transpired between the persons and how he was privy to the petitioner calling upon his wife to bring oil and the others holding him and burning him. It was submitted that if the informant was witness to the entire episode, then the moment the petitioner had given call to his wife to bring oil, it was the duty of the informant, as a son, to rush inside and save his father, but he did not do that and he waited for the wife to bring the oil and others to hold his father and also burn him, and then only he rushing inside, clearly raises serious questions about truthfulness of the narration in the FIR. It was submitted that this goes against the basic conduct of the son towards his father that despite knowing that somebody was calling for oil to be poured on him for being burned and others were holding him, still he would keep waiting till actually the fire was set and then rush to save his father.

9. Learned counsel submitted that just because the petitioner is a high official of the department and the deceased was a contractor, obviously there would have been demands with regard to payment as it is natural that contractors do the work and



the payment is made later, but that does not mean that there is enmity between the parties, and that too, of a degree where the petitioner, his wife, the Superintending Engineer and the Executive Engineer would go to the extent of killing the contractor in his house. Moreover, learned counsel submitted that was absolutely no reason whatsoever for the petitioner to commit such crime as the payment was not to be cleared or made by him.

10. Learned counsel submitted that though the incident may be unfortunate but evidence has also come that the victim was worried about non-payment for the work done by him which may have led to mental pressure due to which he took his own life, but holding the petitioner responsible for the same is wholly unjustified and unwarranted. It was further submitted that it is also inexplicable that if there were 3-4 people outside who have been named that they also helped in taking the victim to the hospital and they were witness to the incident, there is no explanation as to why they also did not rush to save the victim and only when the informant had raised a cry, they had come. It was submitted that the petitioner has no criminal antecedent.

11. Learned APP, from the case dairy, submitted that witnesses have stated with regard to the victim coming, both for taking back his stuff as also with regard to payment which was due



to him and further that he had come alone on the fateful day on his motorcycle and nobody had stated anything about the informant being even present with the victim. Learned counsel also did not controvert that the place of occurrence has been found to be the peon room on the boundary of the premises and not the residential portion of the petitioner.

12. Learned counsel for the informant submitted that the petitioner being in a position to stop the payment of the victim definitely had some interest in the matter. It was submitted that the work done by the victim was building the office-cum-residence of the petitioner and the petitioner living in the house without showing that it was ever handed over or completed shows that he was misusing his position and unnecessarily denying the payment to the victim and to get over from making payment, he was killed. Learned counsel submitted that there were four other persons who have been named in the FIR as being present there and who had helped in taking the victim to the hospital, but none of them having been examined by the police shows that the investigation was not fair and because the petitioner and others are high government servants, the truth has been suppressed. It was submitted that the informant, at that point of time, was more concerned with taking his father to hospital rather than ensuring



that the witnesses and the evidence remained intact and because the place of occurrence was the official residence of the petitioner, there is high probability of things being managed to show it as a simple suicide to save the officers. It was further submitted that similarly situated co-accused, Satyendra Kumar, the Executive Engineer, had withdrawn his application seeking pre-arrest bail *vide* order dated 29.02.2020 of a co-ordinate Bench in Cr. Misc. No. 5291 of 2020 and thus, the petitioner too should move before the Court below and seek bail rather than pressing the present application. Learned counsel submitted that the Post Mortem report discloses that there was 80% burn which indicates that nobody had tried to save the victim and even if it is believed that he had himself tried to commit suicide, the story that the witnesses and other officials had tried to save him is falsified for the reason that had it been true then the victim could not have suffered 80% burn injury and would have suffered lesser injury and could even have been saved.

13. At this juncture, learned counsel for the petitioner, by way of reply, submitted that the Court may not put the petitioner alongside co-accused Satyendra Kumar, with regard to him withdrawing his application for pre-arrest bail, for the reason that on 29.02.2020 when the application was withdrawn, the



allegation against all the accused was under Section 302 of the Indian Penal Code. However, on 03.03.2020, in light of the Supervision Report and direction of the superior officers, the police have ultimately decided to file charge-sheet under Section 306 and 120B of the Indian Penal Code and not under Section 302 of the Indian Penal Code and thus, under such circumstances, the withdrawal of the application on behalf of Satyendra Kumar would not come in the way of the present petition being considered by the Court.

14. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Gopalganj in Gopalganj Town PS Case No. 423 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973, and further, that one of the bailors shall be a close relative of the petitioner and the petitioner shall cooperate in the matter, both with the police/prosecution and the Court. Any violation of the conditions shall lead to cancellation of his bail bonds.



15. It is clarified that any observation made in the order is only for the purposes of considering the present application and would not prejudice any side during the trial.

(Ahsanuddin Amanullah, J)

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