

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31745 of 2020

Arising Out of PS. Case No.-283 Year-2019 Thana- BARAULI District- Gopalganj

Chandra Kant Shukla, Male, aged about 35 years, Son of Satendra Shukla,
Resident of Village-Dewapur, PS-Barauli, District-Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P K Shahi, Senior Advocate with Mr. Arun Kumar Singh No.3, Advocate
For the State	:	Mr. Narendra Kumar Singh, APP
For the Informant	:	Mr. Krishna Prasad Singh, Senior Advocate with Mr. Jitendra Kumar Shrivastwa, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 06-08-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. P K Shahi, learned senior counsel along with Mr. Arun Kumar Singh No. 3, learned counsel for the petitioner; Mr. Narendra Kumar Singh, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Krishna Prasad Singh, learned senior counsel along with Mr. Jitendra Kumar Shrivastwa, learned counsel for the informant.

3. The petitioner apprehends arrest in connection with



Barauli PS Case No. 283 of 2019 dated 10.08.2019, instituted under Sections 304B and 120B/34 of the Indian Penal Code, 1860.

4. The petitioner, along with other family members, is accused of killing his wife.

5. Learned counsel for the petitioner submitted that the present is a very unfortunate case, especially for the petitioner. It was submitted that the petitioner had married the deceased just three months prior to her death. It was submitted that the same was a love marriage with opposition from the families of both the sides and thereafter the couple had visited various places and also gone on a honeymoon trip all over India and the deceased was taken to her parents' house by the petitioner, but the reception was lukewarm and that is why she returned to the matrimonial home. It was submitted that the petitioner was in employment in a firm at the project site at Hapur-Moradabad and, thus, had to leave and the deceased was in the matrimonial home on the fateful day.

6. It was submitted that the deceased had committed suicide and he fairly stated that he has taken direct instructions from the petitioner with regard to there being some explanation as to why the death occurred, for the presumption in law would



be naturally against the petitioner, who is the husband, as death has occurred in the matrimonial home within seven years of marriage, and thus, there have to be circumstances to show that there was no foul play. He submitted that even the petitioner is unable to understand and explain as to what was the reason why the deceased had taken her life, for he had married the deceased out of love and had a very happy conjugal life for 2-3 months where they had gone on a honeymoon trip also, and suddenly this incident occurring has left him shattered.

7. It was submitted that though one of the stands taken before the Court below is that the deceased had some illicit relationship with another person which was seen by the family members of the petitioner, but the petitioner has filed a supplementary affidavit in which a categorical statement has been made that it is not the stand of the petitioner as he has absolutely no reason to believe the same and would not raise a claim of infidelity against the deceased.

8. Further, on merits, learned counsel submitted that on the fateful day viz. 10th August, 2019, the petitioner was at the project site at Hapur-Moradabad with regard to which the Human Resources Department of the firm in which he was working has given him a certificate, copy of which is Annexure-



2 to the petition. Learned counsel further drew the attention of the Court to copy of the post-mortem report, Annexure-3, and submitted that upon external examination, only a ligature mark on upper part of neck 1.5" broad running all around the neck and deficient behind left ear has been noted, without any other mark or injury on the body. Thus, learned counsel submitted that the same is a clear indication that there was no foul play for the simple reason that had there been any forced strangulation by any other person, the deceased being a young lady, would not have been passive and there would have been an attempt to resist which would have shown in some way or the other, leaving some mark on the body, which has not been recorded by the doctor in the course of post-mortem examination.

9. Learned counsel submitted that even in the investigation by the police relating to the Call Detail Record (hereinafter referred to as 'CDR'), it has been found that on 10th August, 2019, the tower location of the petitioner was near the site where he was working, which is very far away from the place of occurrence, and there is no possibility of the petitioner committing the offence and then again reaching his place of posting. Learned counsel submitted that from the same, which is an independent finding by the police based on scientific



investigation, at least, it is not in dispute that the petitioner could not have been involved in the physical act of killing the deceased, even assuming, only for the sake of argument, that she was killed, as he was not at the place of occurrence and rather hundreds of kilometres away, on the said day. It was submitted that the CDR also discloses that the petitioner, within half an hour of the deceased having been declared dead in the hospital, had rung up the informant's side, which was to inform them about the death. Learned counsel submitted that this also points out to the fact that there was no good relationship between the family members of the two sides as it was the petitioner who informed the family of the deceased about the incident.

10. Learned counsel submitted that the other allegation that this was the result of demand of dowry is also falsified for the reason that once it was a love marriage, there cannot be any question of any demand of dowry and further if it is presumed, for the sake of argument alone, that there was demand of dowry, then also it is totally unbelievable that the petitioner and his family members would be so impatient so as to kill the deceased within three months, without giving sufficient time for fulfilment of the demand. Learned counsel submitted that though the petitioner is totally ignorant about the reason why the



deceased would have taken such an extreme step, but he can hazard a guess to the extent that it has come in the CDR that the deceased had tried to call the petitioner from 8:00 AM to 5:00 PM on the said day and 21 calls were made, which were not answered, and, thus, this may have had some very deep disturbing effect on the mind of the deceased which resulted in her in committing suicide. It was submitted that the said calls were also made to the number of another person and not the petitioner and it was not deliberately not answered by the petitioner, as he was unaware of such calls.

11. Learned counsel submitted that the post-mortem report is itself a pointer that it was not strangulation caused by any other person for the reason that in strangulation, the mark would be all around the neck and there would be no gap/deficiency anywhere, but in the present case, the ligature mark is deficient behind left ear which clearly indicates that the death was due to hanging which has not resulted in a mark at that place, where there is likelihood of the knot being present. Further, it was submitted that the ligature mark is on the upper part of the neck. He paused here to submit that the Court would note that had it been a case of strangulation, the mark could not have been on the upper part of the neck and rather somewhere in



the middle and the mark being on the upper part of the neck indicates that it was at the extreme end when the body was in an upright position, which also clearly indicates that it was due to hanging and not by the act of strangulation by any other person.

12. Learned counsel submitted that though in the inquest report there may have been a reference of a scratch on the left foot of the deceased but it is only a scratch which has not even been noticed in the post-mortem report and thus, is of no significance. Learned counsel submitted that the parents of the petitioner who had taken the girl to the hospital where she was declared dead, were arrested by police from the hospital itself and later on have been released on bail. It was submitted that the entire circumstances indicate that the petitioner is innocent. However, he fairly submitted that even the petitioner is unable to either fathom or come up with any explanation as to why the deceased had taken the extreme step of committing suicide. It was submitted that the petitioner has no other criminal antecedent.

13. Learned APP, from the case diary, submitted that it is a fact that in the CDR, tower location of the petitioner was at the site where he claims to be on the said day and also that 21 calls have been made by the deceased to the petitioner, but were



not answered. It was also not controverted that the post-mortem report discloses a ligature mark on upper part of neck 1.5" broad running all around the neck and deficient behind left ear and further that no other injury mark has been found on the body.

14. Learned senior counsel for the informant submitted that the marriage was not a love marriage and was an arranged marriage. Further, it was submitted that the occurrence took place due to non-fulfilment of demand of dowry. It was contended that the ground taken by the petitioner himself before the Court below as well as his parents before the Court below while seeking bail, that the deceased had illicit relationship with some other person which was seen by the petitioner's family, would clearly indicate that this was the reason for them to kill her. Learned senior counsel further submitted that the post-mortem report discloses that there was a ligature mark running all round the neck which shows that it was strangulation.

15. At this juncture, when the Court wanted learned senior counsel to assist as to how the same was deficient behind the left ear as the mark for strangulation to have been made by some other person would have been all around and not deficient anywhere, as deficiency is an indication that there was a knot, learned counsel was not able to clarify the position. On a further



query as to the location of the petitioner, as revealed by the CDR, which does not show the petitioner anywhere near the place of occurrence, learned senior counsel again could not controvert the fact. However, he submitted that the petitioner being the husband, the presumption under Section 304B of the Indian Penal Code, 1860 is against him and he has to explain the circumstances of death, which has occurred within three months of the marriage.

16. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court, on an overall view of the matter, finds that the objective and scientific investigation by the police with regard to the CDR of the petitioner indicates that he was very far away from the place of occurrence on the fateful day. Further, the post-mortem report disclosing that the ligature mark was on the upper part of the neck and deficient behind left ear, raises a strong presumption that it may not be strangulation by some other person and rather may be a case of self-hanging. Moreover, in the tentative view of the Court, the argument of learned counsel for the petitioner that even if there was demand of dowry, the petitioner and his family members, in the natural course of human behaviour, could not have been so impatient so as to kill



the deceased within three months without giving sufficient time for fulfilment of the dowry by taking such extreme steps, is not implausible. The Court is also conscious of the fact that both the parties live in the same city and the petitioner and his family could not have been so unaware that if the death occurred in the matrimonial home, they would be the obvious suspects in the eyes of law, and thus, would not have gone ahead and committed such crime when the petitioner was away, at the risk of jeopardizing their entire future. In such background, taking an overall view, the Court is inclined to allow the prayer for pre-arrest bail.

17. Accordingly, 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 Additional Chief Judicial Magistrate XIV, Gopalganj in Barauli PS Case No. 283 of 2019 corresponding to G.R. No. 2494 of 2019, subject to the conditions enumerated in Section 438(2) of the Code of Criminal Procedure, 1973 and further: (i) that one of the bailors shall be a close relative of the petitioner; (ii) that the petitioner shall cooperate with the Court and the police/prosecution, and;



(iii) that the petitioner will deposit his passport with the Court concerned, and; (iv) the petitioner shall not leave the country without permission of the Court concerned. Any breach of conditions (ii) and (iv) shall lead to cancellation of his bail bonds.

18. It shall also be open for the prosecution and the informant to bring any violation of the foregoing conditions by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

19. It is made clear that all observations hereinabove are *prima facie* and for the purpose of the instant petition alone.

(Ahsanuddin Amanullah, J)

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