

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34029 of 2020

Arising Out of PS. Case No.-62 Year-2020 Thana- RAJAPAKAR District- Vaishali

1. Sitabiya Devi W/o Upendra Paswan
 2. Upendra Paswan S/o Late Jangi Paswan
- Both are R/o village - Alipur Manjhipur, P.S. - Rajapakar, Dist. - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Alok Kumar Alok
For the Opposite Party/s : Mr.APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 21-06-2021 Heard both sides through video conferencing.

The petitioners apprehend their arrest in Rajapakar P.S. Case No.62 of 2020 registered under Sections 304B and 34 of the Indian Penal Code.

The informant, brother of the deceased alleged that his sister was married to Sonu Kumar, son of the petitioners just three months before the occurrence. Immediately after the marriage, her husband(Sonu Kumar), her mother-in-law Sitabiya Devi(petitioner No.1) and her father-in-law, Upendra Paswan(petitioner No.2) started demanding motorcycle. The sister of the informant informed him. The informant went to in-laws house of her sister and tried to persuade the petitioners and others and also ensured to meet the demand but on 29.03.2020,



the informant got information that his sister was done to death.

Mr. Alok Kumar Alok, the learned counsel for the petitioners submits that petitioner No.1 is mother-in-law of the deceased and petitioner No.2 is father-in-law of the deceased. From perusal of the case diary, it appears that petitioner No.2 was arrested by the police but learned A.C.J.M. 3rd, Vaishali granted him provisional bail on account of covid pandemic with a direction to the petitioner No.2 to surrender in the court below after one month but petitioner No.2 did not surrender. It is further submitted that this fact has not been incorporated in the order passed by the learned Additional Sessions Judge 11th, Vaishali at Hajipur and, therefore, he could not mention this fact. It is further submitted that there is omnibus and general allegation that the petitioners being the mother-in-law and the father-in-law of the deceased killed the deceased but in fact deceased herself committed suicide. Learned counsel for the petitioners seeks permission to withdraw the anticipatory bail petition of Upendra Paswan(petitioner No.2).

Learned A.P.P. opposed the prayer for bail.

Perused the record and the case diary. From perusal of paragraph 7 of the case diary, it transpires that the petitioner No.2 was arrested on 29.03.2020 itself and he was sent to the



concerned Judicial Magistrate for remand but the learned A.C.J.M. 3rd instead of remanding the accused to judicial custody granted him bail on his personal bonds with a direction to surrender in the court below within one month after pandemic but petitioner No.2 never surrendered in the court below. The nephew of the petitioner No.2 has sworn affidavit but he has not stated this fact in the petition and this clearly amounts to concealment of facts, therefore, in my view, the person, who has sworn affidavit, is liable to be prosecuted for swearing false affidavit.

It transpires that anticipatory bail petition filed on behalf of petitioner No.2 is not maintainable as he was arrested on the date of occurrence itself and was released on provisional bail. Accordingly, the anticipatory bail petition of petitioner No.2 is dismissed.

So far as the case of petitioner No.1 is concerned, she is the mother-in-law of the deceased. The deceased was done to death within three months from the date of her marriage in her in-laws house. The case diary reveals that the investigating officer has not investigated the case as he did not record the statement of any of the witness during the course of investigation.



Taking into consideration the seriousness of the offence and the nature of allegation made against petitioner No.1, who is mother-in-law of the deceased, I am not inclined to enlarge the petitioner No.1 on anticipatory bail. Accordingly, the same is rejected.

Issue notice to Pappu Paswan, who has sworn affidavit concealing relevant fact from this Court, as to why a case be not lodged against him. The show cause must be filed within four weeks from the date of receipt of this order.

Let a copy of this order be sent to S.P., Vaishali to take appropriate action against such erring investigating officer and report to this Court about the action taken against such erring officer so that he may not be entrusted with the investigation of any work in future besides he be suitably punished.

List this case awaiting the receipt of the show cause on 30.07.2021.

(Prabhat Kumar Jha, J)

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