

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16463 of 2021

Arising Out of PS. Case No.-49 Year-2019 Thana- AKBARPUR District- Nawada

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1. ISHWARI PRASAD @ ISHWARI YADAV S/O LATE RAM BALAK YADAV R/o village- Bandhan Chapra, P.S.- Rajauli, District- Nawada
 2. SHIVANTI DEVI W/O ISHWARI PRASAD @ ISHWARI YADAV R/o village- Bandhan Chapra, P.S.- Rajauli, District- Nawada

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR.
2. Kundan Kumar S/o Bharat Prasad R/o village- Mane Bigha, P.S.- Akbarpur, District- Nwada.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Adv.
For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 05-05-2022 Heard learned counsel for the petitioners and
learned A.P.P. for the State.

Challenging the order of dismissal of discharge petition filed by the petitioners under Section 227 of the Criminal Procedure Code, passed by the learned Additional Sessions Judge, IX, Nawada in Sessions Trial No. 430 of 2019/01 of 2020 arising out of Akbarpur P.S. Case No. 49 of 2019 dated 02.01.2021, the petitioners have preferred this criminal miscellaneous application.

The brief facts of the case, at hands, is that the petitioners happens to be father-in-law and mother-in-law



of the deceased, who is said to be the daughter of the sister of the informant. It is further alleged the sister of the informant is subjected to torture and assault and she was done to death by her in-laws including the petitioners.

Learned counsel for the petitioners submits that the petitioners are of clean antecedent and they have not committed any offence as alleged in the F.I.R. He further submits that the petitioners happened to be father-in-law and mother-in-law of the deceased and they have not demanded any dowry or assaulted her in any manner. He further submits that as a matter fact the occurrence is said to have been committed on 13.02.2019 whereas the F.I.R. has been registered on 15.02.2019 after lapse of two days without any explanation. He further submits that the informant himself admitted that at the time of occurrence, the deceased was residing in her house (Maike) and the dead body has also been found from the abandoned field (badhar) of the village of the informant which is 40 kms. far from the house of the petitioners. He further submits that the petitioners are the old parents of the deceased and they have falsely been implicated in this on the basis of suspicion as there appears to be no specific allegation against them in



the F.I.R.

He, however, further submits that the police after investigation has submitted charge-sheet against the petitioners and the charge has also been framed by the learned magistrate after taking cognizance over the report filed by the police.

He further submits that the learned magistrate without appreciating the materials available on record has framed charges against the petitioners in mechanical manner. The learned Magistrate while rejecting the discharge petition filed by the petitioners has materially erred in appreciating the evidence available on record and passed the impugned order in mechanical manner, which is bad in law as it suffers from gross infirmity and deserves to be set aside.

On the other hand, learned Additional Public Prosecutor submits that the learned magistrate on the basis of charge-sheet filed by the prosecution after investigation and considering the material collected during investigation has taken cognizance and framed charges, accordingly, against the petitioners. He further submits that order impugned herein does not require any interference of this



Court as the same is based on material fact collected by the police.

Having heard and perused the materials available on record and the rival submission advanced by the parties, I am of the view that at the stage of discharge and/or considering application under Section 482 Cr.PC., the Courts are not required to go into the merits of allegations and/or evidence in detail as if conducting mini-trial. Therefore, the impugned order does not require interference of this Court in exercise of powers conferred under Section 482 of the Cr.P.C. Hence, the application stands dismissed, accordingly.

(Rajesh Kumar Verma, J)

braj/-

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