

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16600 of 2022

Arising Out of PS. Case No.-138 Year-2019 Thana- MURLIGANJ District- Madhepura

JAMSHED IMAM Son of Md. Jahiruddin Resident of Village - Vhairopatti,
Ward No. 14, Police Station - Murliganj, District - Madhepura.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Shailendra Kumar Singh, Adv.
For the Opposite Party/s	:	Mr.Binod Kumar,APP
For the informant	:	Mr.Mazharul Hassan, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 17-02-2023 Heard learned counsel for the petitioner and the State
as also the informant.

This is an application for quashing of the order dated
16.2.2022 passed by learned Additional Sessions Judge-II,
Madhepura passed in S. Tr. No. 261 of 2019, arising out of
Murliganj P.S. Case No. 138 of 2019 whereby cognizance was
taken under Section 311 of the Cr.P.C.

As per the prosecution story, the informant namely
Md. Jahiruddin in his fardbeyan stated that on 21.04.2019 at
1.00 P.M., he has gone to attend 'Namaz' and upon return to
home, he heard the cry of his granddaughter namely Nazrain
Imam from the room of his son Jamshed Imam. As he rushed,
found the room locked from inside. On suspicion, he raised



‘hulla’ and called other member of the family. After breaking glass of the window, the door was opened then he found the dead body of his daughter-in-law Rabiya Praveen and granddaughter Nazrain Imam with injuries of knife on several part of the body. Meanwhile, his son Md. Jamshed Imam with knife in his hand was sitting on bed and he too had cut his nerve. Immediately, the police was informed.

Learned counsel for the petitioner submits that the lady, mother of deceased never approached the Court, the petitioner is in custody since years and at the fag end, only to delay the process, a petition was filed for her deposition in the trial which has been allowed under Section 311 of the Cr.P.C. He as such submits that the same is fit to be set aside.

Learned APP on the other hand has taken this Court to the order dated 16.2.2022 in which, it has been incorporated as follows :

“After hearing both the sides, going through the record, I find that the informant of this case is father of the accused. The case is running at the stage of the Evidence. Most of the witnesses examined in this case, are relatives of the accused. Halima Khatun to



whom prosecution has sought to examine, is the mother of the deceased. On earlier occasion she had filed Protest Petition on dt. 27/05/2019, mentioning the fact that the police is in collusion with the accused and she and other witnesses have not been made witness in the case. The other witnesses have also acquainted with the facts of the case and charge-sheet has been filed. Now she has also filed attendance to depose in this case. As the case is running at the Evidence stage, so for the ends of justice, it is essential to allow Halima Khatun and other witnesses mentioned in the Protest Petition to depose in this case. The petition of the prosecution is hereby allowed. Put up the record on 23/02/2022 for Prosecution Evidence.”

Having gone through the observation made by the learned Sessions Judge, this Court is of the view that she is the deceased's mother who had earlier filed protest petition stating that the police is in collusion and she was not made witness. In this background, the learned Court rightly allowed her to depose



in the present case.

There is no error in the order dated 16.2.2022 and the
petition as such do not have merit.

Accordingly, the same is dismissed.

(Rajiv Roy, J)

Ajay Singh/-

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