

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33456 of 2015

Arising Out of PS. Case No.-345 Year-2013 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

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1. Ram Bilash Sahni S/o Bishundeo Sahi
 2. Bishundeo Sahni S/o Late Laxmi Sahni
 3. Anita Devi W/o Arun Sahni; All resident of village Chaiti Durga Asthan,
Korbaha near Sant Kbir College P.S Muffasil District Samastipur.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Bibha devi W/o Dev Thakur; Resident of village Chaiti Durga Asthan,
Korbaha near Sant Kbir College P.S Muffasil District Samastipur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Bhushan Prasad, Advocate
For the Opposite Party/s : Mr. Navin Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 22-02-2023 Heard the parties.

The present petition has been preferred for quashing of the order dated 12.02.2015 in Muffasil P.S. Case No. 345 of 2013, registered under Section 304 of the Indian Penal Code passed by the learned S.D.J.M., Samastipur whereby and whereunder cognizance took under Section 302/34 of the Indian Penal Code against all the petitioners.

As per the prosecution story, Muffasil P.S. Case No. 345 of 2013 was registered with the allegation that when the informant and her mother-in-law were in their house, wife of Arun Sahni started cutting branch of the Guava tree and upon



opposition, the lady pushed her mother-in-law, she became unconscious and later died.

The police investigated the matter and submitted charge sheet under Section 304 of the Indian Penal Code. However, later the informant went to Human Rights Commission which in turn referred the matter to CID, Bihar, Patna and later charge sheet was submitted under Section 302/34 of the Indian Penal Code.

The learned S.D.J.M. after going through the charge sheet having *prima facie* satisfied, cognizance order was passed under Section 302/34 of the Indian Penal Code on 12.05.2015.

Learned counsel for the petitioner submits that when the charge sheet was submitted by the police under Section 304 of the Indian Penal Code, by-passing the Court concerned, the CID took up the matter and subsequently submitted charge sheet against under Section 302/34 of the Indian Penal Code in a routine manner, the learned Court took cognizance in the matter and as such, the same needs interference.

Per contra, learned APP submits that it is not a case that the CID took up the matter *suo motu*. The informant went to Human Rights Commission, Bihar, Patna who in turn referred the matter to CID and under whose instruction, the further



investigation took place and the charge sheet submitted amongst other under Section 302/34 of the Indian Penal Code. As such, the learned Court rightly took cognizance under Section 302/34 of the Indian Penal Code.

Having gone through the facts of the case as also the materials on record, this Court find force in the submissions put forward by the learned APP, it would be appropriate that the petitioner take up all his points before an appropriate Court at an appropriate stage.

No case for interference is made out. Accordingly, the application is dismissed with the aforesaid liberty.

(Rajiv Roy, J)

Jagdish/Neha/-

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