

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4932 of 2017

Arising Out of PS. Case No.-2302 Year-2013 Thana- PURNIA COMPLAINT CASE District-
Purnia

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1. Renu Devi @ Renu Debi and Ors wife of Nishikant Yadav,
 2. Nishikant Yadav,
 3. Revati Raman Yadav alias Rewati Nandan Bishwas alias Rewati Raman Bishwas, Both sons of Late Satyanarayan Biswas, All are resident of Village- Bilarsa, P.S.- Sadar District- Purnea, presently resident at Mohalla- Jaganathpuri, P.S.- Katihar Town, District- Katihar.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Kanti Devi, wife of Late Nawal Kishore Yadav, resident of Village- Bilarsa, P.S.- Sadar, District- Purnea.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Jha, Advocate
For the Opposite Party/s : Sri Madhuranand Jha, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 18-09-2023 1. Heard learned counsel for the petitioners and
learned A.P.P. for the State.

2. The present Quashing Application has been filed seeking quashing of the order dated 05.01.2017 passed by the learned Session Judge, Purnea in S.T. No. 337 of 2016 arising out of C.A. Case No. 2302 of 2013 whereby the learned Sessions Judge has rejected the discharge application of the petitioner filed under Section 227 of the Cr.P.C. and thus refused to discharge the petitioners holding that there are materials for framing of charge under Sections 302, 328 and 34 of the Indian



Penal Code.

3. The learned counsel for the petitioners submits that an FIR came to be instituted by the informant alleging that petitioner nos. 2 and 3 being own brothers of her husband poisoned him to death on account of dispute relating to property apart from other allegations. The learned counsel submits that police investigated the case threadbare and came to a considered conclusion that petitioners are innocent and thus submitted Final Form. It is next submitted that the Final Form was accepted but the protest petition filed by the informant was treated as complaint and thereafter based on evidence which surfaced in the inquiry of the complainant along with the witnesses the learned trial Court proceeded to take cognizance under Sections 302, 328 and 34 of the Indian Penal Code against which the petitioners had moved before the learned Sessions Judge seeking discharge which came to be rejected. The learned counsel for the petitioners submits that there are various grounds to assail the revisional order but one of the most striking facts is the FSL (Forensic Science Laboratory) Report does not corroborate poisoning.

4. The learned A.P.P. though not disputes the contention of the learned counsel for the petitioners that FSL



(Forensic Science Laboratory) does not support the allegation of poisoning but then submits that from the postmortem report it would manifest that the doctor had suspected poisoning to be the reason for the death.

5. On query of the Court from the learned counsel for the petitioners with regard to the stage of the case, the learned counsel for the petitioners fairly submits that the charges have been framed and the trial has commenced and witnesses are being examined.

6. The learned A.P.P., at this stage, submits that since the trial has commenced and the witnesses are being examined, as such, the petitioners will have all the chances for rebutting the evidence of the complainant and her witnesses in the trial to prove their innocence.

7. Considering the submissions made by the learned A.P.P., the Court is not inclined to entertain the Quashing Application, accordingly the quashing application is dismissed.

(Satyavrat Verma, J)

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