

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49389 of 2015

Arising Out of PS. Case No.-455 Year-2004 Thana- BHABHUA District- Kaimur (Bhabua)

Dr. Ram Bilas Singh @ Ram Bilas Singh, Son of Late Sukhdeo Prasad,
Resident of Village - Mahendarpur, P.S. Begusarai, District - Begusarai,
present address at Sadar Hospital, P.S. Bhabhua, District Kaimur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Jai Prakash Singh, Advocate

For the Opposite Party/s : Mr. J. Upadhyaya, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 13-09-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner in the present case is seeking quashing of the order dated 20.07.2015 passed by learned Additional District & Sessions Judge-VI, Kaimur at Bhabhua in Sessions Case No. 148 of 2009 –188 of 2014 arising out of Bhabhua P.S. Case No. 455 of 2004 whereby and whereunder the petition under Section 227 of the Cr.P.C. for the offence under Sections 498(A) and 304(B) of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act of the petitioner has been dismissed.

3. Learned counsel for the petitioner submits that this is a classic case of misuse of process of court at the instance of the Investigating Officer of Bhabhua (Sonhal) P.S. Case No. 455



of 2004 registered for the offences alleged under Section 498(A) and 304(B) read with Section 3/4 of the Dowry Prohibition Act.

4. Learned counsel submits that the said case was registered by one Ram Dhawan Singh against his son-in-law and the other members of the family of the son-in-law alleging that they were involved in committing torture upon his newly married daughter and then they had killed his daughter due to non-fulfillment of demand of dowry. In the first information report giving rise to Bhabhua (Sonhal) P.S. Case No. 455 of 2004 under Section 498(A) and 304B IPC read with Section 3/4 of the Dowry Prohibition Act, the petitioner is not named as an accused. There is no allegation at all against him in the first information report.

5. Learned counsel submits that after about one and half year of the alleged occurrence, the police submitted a chargesheet against some of the accused persons vide Chargesheet No. 17 of 2005 but the investigation of the case was kept pending.

6. It is further submitted that at the relevant time, this petitioner was posted as Medical Officer of Sadar Hospital, Bhabhua. Learned counsel for the petitioner submits that in fact as Medical Officer at Sadar Hospital, Bhabhua, the petitioner



had occasion to conduct autopsy on the dead body of the daughter of the informant. In his post-mortem report, he has noticed the kind of injuries and then recorded that the exact cause of death not ascertained, so the Viscera has been sealed in a jar and handed over to the concerned police staff for chemical analysis. It is submitted that thereafter the petitioner had no knowledge as to what happened in the case registered by the informant.

7. It appears that in course of investigation, the Dy.S.P. recorded a supervision note in which he alleged that this petitioner has not ascertained the injuries of the deceased. It is for this reason, the petitioner has been made accused by Dy.S.P. and a second chargesheet was filed on 31.01.2009 vide Chargesheet No. 12 of 2009 against the petitioner. The chargesheet/police report says that for not mentioning the injuries in course of post-mortem, the petitioner has been found guilty under Section 201 of the Indian Penal Code.

8. Learned counsel submits that by no stretch of imagination, Section 201 IPC would be attracted against him. It is submitted that the petitioner was initially made a chargesheet witness in the first chargesheet but then he was not examined in course of trial and there was no suggestion of the prosecution in



course of trial of the accused in the first chargesheet that the petitioner had caused disappearance of evidence of offence or had given false information to screen the offender.

9. Learned counsel submits that in course of trial of the accused who were chargesheeted by first chargesheet, the prosecution witnesses became hostile, they entered into a compromise and thereafter they came in the witness box but did not support the prosecution case. As a result of this, all the accused persons under the first chargesheet have been acquitted vide judgment dated 04.01.2006 passed by learned Additional District and Sessions Judge, 1st Court, Kaimur at Bhabhua in Sessions Trial No. 211 of 2005 / 93 of 2005.

10. It is submitted that in such circumstance, continuance of the present prosecution is nothing but an abuse of process of court, hence, it is fit to be quashed.

11. Learned APP for the State has opposed the present application. It is submitted that the allegation against the petitioner is that he had not mentioned the injuries on the body of the deceased in course of post-mortem.

12. Having heard learned counsel for the parties and upon perusal of the records, this Court finds that the petitioner is being prosecuted for offence under Section 201 IPC. Section



201 IPC reads as under:-

“201. Causing disappearance of evidence of offence, or giving false information to screen offender.

Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

if a capital offence;

shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life;

and if the offence is punishable with ^a[imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

if punishable with less than ten years' imprisonment.

and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Illustration

A, knowing that B has murdered Z, assists B to hide the body with the intention to screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.”

[a] Substituted for the words ‘transportation for life’ by Act (26 of 1955), S. 117 and Schedule, Item 13 (1-1-1956).



13. In the present case, the informant or any of the prosecution witnesses did not come out with an allegation against the petitioner that he had in any way participated in causing disappearance of the evidence of the offence. The FIR states that the daughter of the informant was assaulted by her husband and she was left at her father's place. The father (informant) had taken his daughter to Mohania, Hospital at first instance from where she was referred to the Varanasi but on way to Varanasi, she died. It is, therefore, evident that at the first instance the informant had taken his daughter to the referral hospital at Mohania. This petitioner was not posted at Mohania Referral Hospital, therefore, he had no occasion to take note of the injuries and it is not the case of the informant or even the police personnel who were investigating and supervising the case that any injury report of the Referral Hospital, Mohania was produced before the petitioner at the time of post-mortem. In fact no injury report of Mohania Referral Hospital has been produced by the prosecution even in course of trial of the accused under the first chargesheet.

14. This petitioner had occasion to conduct autopsy on the dead body and in the admitted document i.e. post-mortem report, it is mentioned that there was no obvious external



injuries on the body. The petitioner has recorded that exact cause of death could not be ascertained, so the Viscera was sealed in a jar and was handed over to police.

15. In the given facts and circumstances, this Court finds that no case of causing disappearance of evidence of offence or giving false information to screen the offender is even prima-facie made out. Learned court below has while rejecting the application seeking discharge of the petitioner has not appreciated this aspect of the matter.

16. In the opinion of this Court, prosecution of the petitioner in the kind of completely vague and unfounded allegations is nothing but an abuse of process of court.

17. The impugned order dated 20.07.2015 passed by learned Additional District & Sessions Judge-VI, Kaimur at Bhabhua in Sessions Case No. 148 of 2009 –188 of 2014 arising out of Bhabhua P.S. Case No. 455 of 2004 is, thus, set aside. The prosecution against the petitioner above named is quashed.

18. This application is allowed.

(Rajeev Ranjan Prasad, J)

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