

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.20694 of 2015

Arising Out of PS. Case No.-38 Year-2014 Thana- MURLIGANJ District- Madhepura

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Santosh Kumar Son of Jai kishore Yadav Resident of Village- Khari tola,
Rahta, Police Station- Murliganj, District- Madhepura

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Brahmdeo Yadav son of Late Dhanik Lal Yadav Resident of Village-
Morkahi, Police station- Simri, Bakbhtiarpur O.P Balwahat, District Saharsa
... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Advocate Mr. Uday Chand Prasad, Advocate
For the State	:	Mr. U.L.Verma, APP
For the Complainant	:	Mr. Bibhakar Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

5 13-02-2023 Heard the parties.

The present application is for quashing of the order dated 01.11.2014 passed by learned Chief Judicial Magistrate, Madhepura in Murliganj P.S. Case No.38 of 2014 under Section 306 of the Indian Penal Code.

As per the prosecution story, the complainant preferred Complaint Case No.157 of 2014 alleging therein that his daughter Nutan Kumari (since deceased) was married with the petitioner on 07-02-2007 and they were living happily and in



course of time were blessed with a daughter and two sons.

However, sometimes later, she was tortured for want of dowry and when she fell ill, was never provided better treatment and later in IGIMS, Patna she was detected suffering from blood cancer. However, despite their request to take the lady to Mumbai for better treatment, she was admitted at a private hospital in Patna where she died on 11.01.2014 for lack of good treatment and the mortal remains were consigned to flame without even informing her family members.

Learned counsel for the petitioner straightaway has taken this Court to a Death Certificate issued by S.S. Hospital, Kankarbagh, Patna signed by the Consultant Oncologist of the capital city by which it has been stated as under.

“She was admitted on 03-12-2013 with treatment of CML due to the advancement of the disease. She died on 11-01-2014 at 00:30 hrs (12.30 AM) and the cause of death was Cardio Respiratory failure.”

He submits that the couple was enjoying conjugal life happily, and were blessed with three children in course of time, unfortunately she was detected blood cancer and despite best of treatment provided to her, she breath her last on 11.01.2014.

The entire family members were going through the depression due to loss of the petitioner's beloved wife and in the



meantime adding insult to injury, the present complaint was filed by the deceased father alleging tortured and subsequent ill treatment as also not providing better treatment. He as such submits that it is completely abuse of the process of law.

Per contra, learned counsel for the informant submits that para-6 & 7 of the complaint would show that the lady was tortured. A perusal of the said complaint would show that she was not provided better treatment which finally resulted into her death.

After having gone through entire facts of the case, this Court comes to a considered conclusion that it is complete abuse of the process of the law. The lady was suffering from cancer and a renowned doctor of the Capital City gave Death Certificate clearly stating that the cause of death due to advancement of the illness and she breath her last in the said hospital on 11.01.2014.

From the aforesaid facts, it is clear that after the petitioner detected that his wife is suffering from cancer gave her best of the treatment according to the financial condition he had in a private cancer hospital at Patna where she breath her last. Instead of taking care of his bereaved son-in-law and the three grand children, the complainant resorted to harassing



them.

The order dated 01.11.2014 passed by learned Chief
Judicial Magistrate, Madhepura in Murliganj P.S. Case No.38 of
2014 taking cognizance in the matter is set aside.

The application stands allowed.

(Rajiv Roy, J)

Prakash Narayan /-

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