

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42672 of 2016

Arising Out of PS. Case No.-640 Year-2016 Thana- NALANDA COMPLAINT CASE
District- Nalanda

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1. Rakesh Kumar, Son of Kapildeo Prasad
 2. Kapildeo Prasad, Son of Prasadi Mahto
 3. Urmila Devi Wife of Kapildeo Prasad
All residents of Village - Silao Dih, P.S. -Sialo, District - Nalanda.

... .. Petitioners

Versus

1. The State of Bihar
2. Baso Mahto, Son of Late Dwarika Mahto, Resident of Village-Maha Nandpur, P.S.-Deep Nagar, District -Nalanda.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate

For the Opposite Party/s : Mr. Yogendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 20-06-2024

Heard learned counsel appearing for the petitioners
and learned APP for the State.

2. This application has been filed by the petitioners for quashing the order dated 29.08.2016 passed by learned Judicial Magistrate-1st Class, Bihar Sharif, Nalanda in Complaint Case No.640 (C) of 2016 whereby the learned jurisdictional Magistrate has taken cognizance against the petitioners for the offences punishable under Sections 304-B and 201 read with 34 of the Indian Penal Code (for short



'IPC') and Sections 3 and 4 of the Dowry Prohibition Act and summoned them to face trial.

3. The case of prosecution, in brief, is that the opposite party no.2, namely, Baso Mahto has married his daughter namely, Dinu Kumari with petitioner no.1, namely, Rakesh Kumar on 23.05.2011 in which he gave gift, cash, ornaments, clothes etc. and after marriage, his daughter went to her matrimonial house, where after some days, the accused persons started to demand a sum of Rs.1 lakh and a motorcycle and due to non-fulfilment of the same, the accused persons started assaulting her and ousted her from their house. It is alleged that her daughter narrated the incident to her father, who tried to get them understand but, the petitioners did not agree for the same. It is further alleged that after a year, petitioner no.1, Rakesh Kumar came at the house of opposite party no.2, where he gave a sum of Rs.25,000/- and, thereafter, his daughter went with Rakesh Kumar at village-Silao Dih and she gave birth of a son. It is further alleged that due to non-fulfilment of the rest amount, the accused persons again started to assault



his daughter. It is further alleged that 20 days prior to the date of occurrence, daughter of the informant came at his house and narrated about the occurrence. However, about 10 days, he sent his daughter to her matrimonial house but, on 14.06.2016, he came to know that his daughter has been killed and her body is cremated. Then, the opposite party no.2 went to the place of occurrence and inquired about her death but the petitioners did not disclose about the incident. Then, the opposite party no.2 went to village-Silao Dih and came to know that his daughter has been killed in the night of 13.06.2016. Thereafter, the opposite party no.2 went to the police station where his statement was recorded but, no action was taken by S.H.O. Thereafter, he filed the complaint case to the court of learned Chief Judicial Magistrate, Nalanda.

4. It is submitted by learned counsel appearing for petitioners that the daughter of informant died out of stomach pain and, therefore, the allegation *qua* dowry death against the petitioners are completely unfounded. It is further submitted that petitioner no.1 is husband, whereas



petitioner nos. 2 and 3 are in-laws. In support of the submission, learned counsel has referred to Annexure-5, which suggest the hospitalization of deceased on the date of occurrence.

5. Learned APP appearing on behalf of the State submitted that the allegation against the petitioners are serious. It is submitted that undoubtedly the death of daughter of informant caused in the house of petitioners. It is further pointed out by learned APP that Annexure-5 is only showing the "blood pressure" measurement of deceased and nothing more and on the basis of said report, the health status as submitted by learned counsel for the petitioners could not be believed. Learned APP further pointed out that in the present case, the victim/deceased was subjected to emotional, physical and mental abuse out of non-fulfilment of demand of dowry, which clearly falls in the category of serious offence and, therefore, the FIR and proceedings emanating therefrom cannot be quashed. In support of his submission, learned APP relied upon the report of **Ananda D.V. vs. State & Anr. [(2019) SCC OnLine Del. 1163]**.



6. In view of aforesaid facts and circumstances, as admittedly, the death of the daughter of informant occurs in suspicious condition in the house of petitioners in the background of demand of dowry, where death appears to be occurred within seven years of marriage, this Court finds no force in the submission of learned counsel appearing for the petitioners that the daughter of informant died out of stomach pain.

7. Accordingly, the present petition stands dismissed.

8. Let a copy of the judgment be sent to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.06.2024
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