

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26355 of 2023

Arising Out of PS. Case No.-849 Year-2018 Thana- SHASTRINAGAR District- Patna

Nitu Singh, 36 years (Female), D/O Krishna Singh, Wife of Late Jitendra Kumar, Resident of Mohalla- Yadupati Banaras Bank Chock, P.S.- Brahmpura, District Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar.
2. Dr Raj Kumar, aged about 63 years (Male), Son of Late Ram Prasad Singh, Resident of Village- Mahadev Asthan, P.S.- Khagaul, Distt- Patna, at present residing at Guru Sahay Lal Lane, Magistrate Colony, House of Arvind Kumar, P.S.- Rajivnagar, Distt- Patna.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Mahendra Thakur, Advocate
For the O.P. No. 2	:	Mr. Hari Shankar Roy, Advocate
For the State	:	Mr. Raj Ballabh Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

6 05-12-2024 Heard learned counsel for the petitioner, learned counsel for the opposite party no. 2 and learned A.P.P. for the State.

2. The present application has been filed on behalf of the petitioner for quashing the order dated 16.01.2023, passed by learned 16th Additional Sessions Judge, Patna, in connection with Sessions Trial No. 381 of 2019, arising out of Shastrinagar P.S. Case No. 849 of 2018, whereby and whereunder the learned trial court has been pleased to reject the petition filed by the petitioner under Section 340 of the Cr.P.C. for taking action



under the law as against the opposite party no. 2, for giving false and wrong statement on oath in the aforesaid Sessions Trial No. 381 of 2019 and for further direction to the learned trial court to consider the case of the petitioner afresh after considering the case of the petitioner as well as material available on the record.

3. The prosecution case, in brief, is that on 05.12.2018 at 10.15 A.M., Jitendra Kumar, the brother of the opposite party no. 2, has been shot dead by unknown persons due to land dispute and the opposite party no. 2 has suspected that in murder of his brother, the wife (petitioner) and her parents and her brother have a hand in collusion with other accused persons.

4. It is submitted by learned counsel for the petitioner that the petitioner has falsely been implicated in the present case. It is further submitted that during the course of investigation, the petitioner and others have been arrested by police and accordingly, without any substantial evidence, police has submitted charge sheet against the petitioner and others and accordingly, the learned Magistrate took cognizance of the offence and subsequently charge has been framed and trial has been commenced vide Sessions Trial No. 381 of 2019. It is further submitted that during the course of trial, the opposite party no. 2 has been examined as P.W. 3 before the learned trial



court and gave false statement and when he gave the false statement before the learned trial court, the petitioner has filed a petition under Section 340 of the Cr.P.C. by stating categorical facts with evidence which was already on record before the learned trial court for prosecution against the opposite party no. 2 for giving false statement on oath before the court on 25.11.2022 but the learned trial court without going through the evidence as elaborated by the petitioner against the opposite party no. 2, the learned trial court has rejected the petition of the petitioner in a most mechanical manner without going into the merit of the case of the petitioner by saying that due to this petition the petitioner wants to prolong the trial whereas if the petition, of the petitioner would have allowed then a separate proceeding would have initiated and the present proceeding i.e., Sessions Trial No. 381 of 2019 will be continued as usual. It is further submitted that the learned trial court while passing the impugned order did not consider that number of innocent persons are facing trial and due to wrong and false evidence of the opposite party no. 2, lives of innocent persons will be exploited. It is further submitted that during the course of trial, not even a single evidence has come against the petitioner. It is further submitted that the opposite party no. 2 himself is behind



the alleged occurrence because the land dispute was already going on between the opposite party no. 2 and his brother (deceased) and the petitioner who was the wife of the deceased, a case under Section 498A of the I.P.C. was going on between the petitioner and the deceased as well as the opposite party no. 2, since 2009 itself and the petitioner was not residing with the deceased since 2008 itself so, the opposite party no. 2 has falsely implicated the petitioner and her parents and her brother who is an Advocate in the learned District Court, Muzaffarpur, with a view to kill two birds with one stone because the deceased had a costly landed property in the Patna Town. It is further submitted that the petitioner is the wife of the deceased and was residing in Muzaffarpur Town since 2008 where she was working in a private firm and at the alleged date and time of occurrence, she was also in Muzaffarpur from where she was arrested on the same day then F.I.R. was registered. It is further submitted that if the prayer of the petitioner will not be allowed, the petitioner will suffer irreparable loss having no fault of her part.

5. Learned A.P.P. for the State and learned counsel for the opposite party no. 2 have vehemently opposed the prayer of the petitioner. Learned counsel for the opposite party no. 2 has



submitted that the petitioner had filed a false petition under Section 340 of the Cr.P.C. for taking action against the opposite party no. 2 for giving false and wrong statement on oath before the learned trial court only to delay in concluding the proceeding i.e., Sessions Trial No. 381 of 2019, hence, the learned trial court has rightly rejected the petition of the petitioner on 16.01.2023.

6. Having regard to the facts and circumstances of the case as well as submissions made on behalf of the parties, the learned trial court has rightly rejected the petition of the petitioner, hence, this Court is not inclined to interfere with the order dated 16.01.2023, passed by the learned 16th Additional Sessions Judge, Patna, in connection with Sessions Trial No. 381 of 2019, arising out of Shastrinagar P.S. Case No. 849 of 2018.

7. Accordingly, the petition stands rejected.

(Chandra Prakash Singh, J)

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