

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.28748 of 2016**

Arising Out of PS. Case No.-91 Year-2014 Thana- AHIYAPUR District- Muzaffarpur

Sudhir Kumar Thakur, son of Sri Uday Nath Thakur, resident of village Sahbajpur, P.S. Ahiyapur, Distt. Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Usha Kumari, wife of late Hriday Kumar Jha.

... .. Opposite Party/s

**Appearance :**

|                    |   |                                   |
|--------------------|---|-----------------------------------|
| For the Petitioner | : | Mr. Nachiketa Jha, Advocate.      |
| For State          | : | Mr. Yogendra Kumar, APP           |
| For the O.P. No.2  | : | Mr. Sunil Kumar Pandey, Advocate. |

**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR**  
**ORAL ORDER**

9      18-10-2024                      The present petition has been preferred under Section 482 Cr.PC for quashing of the impugned order dated 10.06.2016 passed by learned 10<sup>th</sup> Additional Sessions Judge, Muzaffarpur, in connection with Sessions Trial No. 20 of 2015 arising out of Ahiyapur P.S. Case No. 91 of 2014 whereby petition under Section 227 Cr.PC praying for his discharge has been rejected.

2. On the *fardbeyan* of wife of the deceased, FIR bearing Ahiyapur P.S. Case No. 91 of 2014 was registered for the offence punishable under Section 364A read with Section 34 of the Indian Penal Code against unknown persons. Subsequently, after recovery of dead body Sections 302 and 120B of the Indian Penal Code was added.



3. As per *fardbeyan*, the deceased was kidnapped and was later on found to be dead and her dead body was recovered.

4. After investigation, charge-sheet was submitted against the petitioner, keeping the investigation against rest of the accused pending.

5. While dismissing the impugned order, learned Court below has held that as per material in the case diary, *prima facie* case is made out against the petitioner. Hence, the petition filed under Section 127 Cr.PC. by the petitioner was rejected.

6. Heard learned counsel for the petitioner, learned APP for the State as well as learned counsel for the Opposite Party No. 2.

7. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He is not named in the First Information Report and there is no cogent evidence against the petitioner. At most only suspicion may be there against the petitioner. Hence, the impugned order is liable to be dismissed and the petitioner should have been discharged.

8. However, learned APP for the State and learned counsel for the Opposite Party No. 2 vehemently submit that as



per the material on record, there is no illegality or infirmity in the impugned order. There is sufficient material in the Police case diary to frame charge. The trial is going on and presently it is at advance stage. Most of the prosecution witnesses have been examined and only few witnesses are yet to be examined. Hence, in view of the merit of the case as well as seeing the stage of the trial, this petition is liable to be dismissed.

9. I perused the materials on record and considered the submissions advanced by both the sides. We find that the alleged offence is serious in nature punishable under Sections 364, 302 read with Section 120-B of the Indian Penal Code and from perusal of the case diary, at least a strong suspicion is there against the petitioner and strong suspicion based on Police material is sufficient to conduct trial. Moreover, the trial is at an advance stage because the prosecution evidence is likely to be closed.

10. Considering the aforesaid facts, I am not persuaded to allow the petition.

11. Accordingly, the present petition is dismissed.

**(Jitendra Kumar, J)**

S.Ali/Shoaib

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