

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61761 of 2024

Arising Out of PS. Case No.-56 Year-2016 Thana- FATUA District- Patna

Vira Devi, Female, age 59 years, W/o Late Vrijanath Singh @ Vrijanathi Singh R/o Village- Fatehpur, P.S -Raghopur, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ansul, Advocate Mr. Anuj Kumar, Advocate
For the State	:	Mr. Tarun Prasad Mandal, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 02-09-2024 Heard the parties.

2. The present application has been filed for quashing the order dated 29.07.2024 passed by the learned A.D.J.-II, Patna City in Sessions Trial No. 148 of 2017 arising out of Fathua P.S. Case No. 56 of 2016 by which the application of the informant dated 18.07.2024 for allowing her to get her case argued by her lawyer has been rejected but she has been permitted to file her written argument.

3. The petitioner, who is the informant, had filed Fathua P.S. Case No.56 of 2016 dated 05.02.2016, alleging that the accused persons brutally killed her husband Brijanathi Singh and injured her sister-in-law, Puja Devi, with a gunshot. Thereafter, upon investigation, the police filed a charge sheet and the trial commenced. The prosecution examined eight



witnesses, and after recording the statement of the accused persons under section 313 CrPC, the final arguments commenced in the case. When the counsel for the petitioner (informant) reached in the Court below for advancing his argument, an objection was raised by the defence on locus of the counsel for the informant to argue the matter. Thereafter, on 18.07.2024 the counsel for the informant preferred an application praying for advancing oral arguments. The accused persons filed a rejoinder dated 22.07.2024 to the said application stating therein that Sections 225, 234, and 301 of the Cr.P.C. do not provide the informant to argue the case in the trial. The trial Court vide impugned order dated 29.07.2024 rejected the application of the petitioner (informant) and granted liberty to her to file written argument.

4. Learned counsel for the petitioner submits that the instant petitioner, who is the informant has lost her husband, is a victim under Section 2(wa) of the Code of Criminal Procedure and has legally vested and unrestricted participatory rights to be heard at every stage of the criminal proceedings, from investigation to the conclusion of the proceedings in an appeal or revision.

5. In support of the submission, he has placed reliance



on the judgment of the Hon'ble Supreme Court in case of ***Jagjeet Singh & Ors. Vs. Ashish Mishra @ Monu & Anr.***, reported in ***(2022) 9 SCC 321***.

6. Learned counsel for the petitioner further submits that the complainant/victim is the facto sufferer, cannot be made to sit outside the Court as a mute spectator. The petitioner draws strength from the above cited judgment of the Hon'ble Supreme Court, which has been followed by Courts in various judgments. The relevant part of judgment of **Jagjeet Singh** (supra) is reproduced hereinunder:

“22. It cannot be gainsaid that the rights of a victim under the amended CrPC are substantive, enforceable, and are another facet of human rights. The victim's right, therefore, cannot be termed or construed restrictively like a brutum fulmen [Ed.: The literal translation from the Latin approximates to "meaningless thunderbolt or lightning", and is used to convey the idea of an “empty threat” or something which is ineffective.] We reiterate that these rights are totally independent, incomparable, and are not accessory or auxiliary to those of the State under the CrPC. The presence of "State" in the proceedings, therefore, does not tantamount to according a hearing to a "victim" of the crime.

23. A "Victim" within the meaning of CrPC cannot be asked to await the commencement of trial for asserting his/her right to participate in the proceedings. He/she has a legally vested right to be heard at every step post the occurrence of an offence. Such a "victim" has unbridled participatory rights from the stage of investigation till the culmination of the proceedings in an appeal or revision. We may



hasten to clarify that "Victim" and "complainant/informant" are two distinct connotations in criminal jurisprudence. It is not always necessary that the complainant/informant is also a "victim", for even a stranger to the act of crime can be an "informant", and similarly, a "victim" need not be the complainant or informant of a felony"

7. The defence in the Court below has submitted that the judgment of **Jagjeet Singh** (*supra*) was not applicable in the facts of the case as the same has been passed by the Hon'ble Supreme Court while considering the bail application of the accused persons.

8. However, learned counsel for the petitioner has relied upon a judgment of the Hon'ble Supreme Court in the case of **Peerless General Finance and Investment Company vs. CIT** reported in **(2020) 18 SCC 625**. Paragraph no. 11 of the aforeasid judgment reads as under:

"11. While it is true that there was no direct focus of the Court on whether subscriptions so received are capital or revenue in nature, we may still advert to the fact that this Court has also, on general principles, held that such subscriptions would be capital receipts, and if they were treated to be income, this would violate the Companies Act. It is, therefore, incorrect to state, as has been stated by the High Court, that the decision in Peerless General Finance and Investment Co. Ltd. [Peerless General Finance & Investment Co. Ltd. V. RBI, (1992) 2 SCC 343: (1992) 75 Comp Cas 12] must be read as not having laid down any absolute proposition of law that all receipts of



subscription at the hands of the assessee for these years must be treated as capital receipts. We reiterate that though the Court's focus was not directly on this, yet, a pronouncement by this Court, even if it cannot be strictly called the ratio decidendi of the judgment, would certainly be binding on the High Court."

9. I have considered the submissions of the parties and perused the materials on record.

10. Considering the facts of this case and also the law laid down by the Hon’ble Supreme Court in the case of **Jagjeet Singh** (*supra*) and **Peerless General Finance and Investment Company vs. CIT** (*supra*), I am of the view that the petitioner, who is the informant-victim has a right to appear in the trial and make her submissions and file her written arguments in the Court of Sessions trial.

11. In view of the above, this application is allowed and the order dated 29.07.2024 passed by the learned A.D.J.-II, Patna City in Sessions Trial No. 148 of 20217 arising out of Fatuha P.S. Case No. 56 of 2016 is hereby quashed.

(Sandeep Kumar, J)

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