

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40074 of 2016

Arising Out of PS. Case No.-249 Year-2014 Thana- MIRGANJ District- Gopalganj

Jitendra Singh, Son of Ranglal Singh, Resident of village - Ekdanga Bazar,
P.S.- Mirganj, District- Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar
2. Most. Lalita Devi, W/O Late Naresh Ram, R/O Village- Ekdanga Bazaar,
P.S- Mirganj, Distt.- Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Pandey, Advocate
For the State	:	Mr. Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

9 06-02-2025 Heard Mr. Sanjay Kumar Pandey, learned counsel

appearing for the petitioner and Mr. Sadanand Paswan, learned

APP for the State.

2. The instant petition has been filed under Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') with a prayer to quash the order dated 02.04.2016 passed by learned Chief Judicial Magistrate, Gopalganj in Trial No. 2159 of 2016 arising out of Mirganj P.S. Case No. 249 of 2014 whereby the cognizance of the offences under Section 302 read with Section 34 of the Indian Penal Code (in short 'IPC') and under Section 3(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, (in short 'SC/ST Act') has been taken against



the petitioner and others.

3. The main submissions advanced by petitioner's counsel are that during the course of investigation and supervision, the police recorded the statements of several persons and it came to light that the petitioner, co-accused persons and the deceased were very close to each other and there was no personal enmity in between them and it also came into light that the deceased was an addict of consuming liquor, in fact, there is *bona fide* land dispute in between the petitioner and one Indrajit Ram, cousin (*chachera*) grandson of the deceased and due to the said reason as well as the informant having agony against the petitioner on account of him being one of the liquor partners of her husband and during the course of investigation two different stories came into light as according to some independent witnesses, no incident of *marpit* took place in between the petitioner and the deceased while as per the second set of witnesses, the deceased was assaulted by the co-accused Dhiraj Sharma and Bhueta Bansphor, and the petitioner allegedly dragged the deceased from the road to the roadside only and there is a contradiction in between the informant's statements made by her in her *fardbyean* and her restatement regarding the manner of taking away the deceased by the



accused. It is further submitted that the inquest report suggests that there was no injury on the body of the deceased except one small wound over the left eyebrow and in the postmortem report, only two minor injuries, one an abrasion over the left eyebrow and second swelling on the chest were found by the concerned doctor. It is further submitted that two co-accused persons namely, Dhiraj Sharma and Bhueta Bansphor were chargesheeted by the police but the petitioner was not sent up by the police, however, without any material the learned Magistrate has taken cognizance against him relying upon the statements of some witnesses mentioned in some paragraphs, which are not relevant and do not show even *prima facie* involvement of the petitioner in the commission of the alleged offences.

4. Learned APP for the State has opposed this petition and submitted that there are sufficient materials against the petitioner to proceed with the alleged offences and the order impugned taking cognizance against the petitioner as well as summoning him for the said offences is proper.

5. Heard both sides and perused the order impugned, FIR and the case diary. There are some circumstances which go against the petitioners. Firstly, as per the prosecution's story described by the informant in the FIR, the petitioner and co-



accused persons came at the house of informant on 28.08.2014 in the morning at 7 O'clock and took the deceased with them and on the same day at 11:00 A.M., the informant received an information about her husband's dead body being found lying near the house one namely, Apurna Singh @ Apurna Bhagat. In the FIR, the petitioner is named and as per the informant, he was one of the accused who took the deceased with them and about four hours after taking the deceased, the dead body of the deceased was found. The second circumstance is of giving information by the informant to the police immediately regarding the commission of the alleged occurrence which shows that the FIR was not registered afterthought. Thirdly, as per the inquest report and postmortem report, some external injuries were found on the body of the deceased. Fourthly, during investigation, some witnesses claimed to have seen the petitioner dragging the dead body and one witness namely, Awadh Ram, though he is a relative of the deceased, stated that he saw co-accused, Dhiraj Sharma and Bhueta Bansphor, assaulting the deceased by legs and fists and the petitioner was seen throwing the deceased to the ground from the road. Further, as per the prosecution story, the petitioner, co-accused and the deceased used to consume liquor together. All these



circumstances go against the petitioner and raise a reasonable presumption of the commission of a criminal wrong with the deceased. Accordingly, this Court finds the order impugned taking cognizance of the alleged offence and summoning the petitioner for the said offences to be proper and legal and there is no need to interfere in the same and the instant petition lacks merit, so, it stands dismissed.

(Shailendra Singh, J)

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