

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.57 of 2025

Arising Out of PS. Case No.-362 Year-2020 Thana- VAISHALI District- Vaishali

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1. Md. Amjad @ Amjad Hussan S/o Nevaji Sah Resident of Village- Purkhauli, Abhvaa, P.S.- Vaishali, Distt.- Vaishali
 2. Ishrat Praveen W/o Md. Amjad @ Amjad Hussan Resident of Village- Purkhauli, Abhvaa, P.S.- Vaishali, Distt.- Vaishali
 3. Md. Mahboob Alam @ Mahboob Alam S/o Md. Amjad @ Amjad Hussan Resident of Village- Purkhauli, Abhvaa, P.S.- Vaishali, Distt.- Vaishali
 4. Md. Irfan S/o Md. Abdul Qaiyun Sah R/o vill - Gapsara, P.S.- Karja, Distt.- Muzaffarpur, Bihar

... .. Appellant/s

Versus

1. The State of Bihar
2. Sanjay Das S/o Nirsan Das R/o Abhvaa, P.S. - Vaishali, Distt.- Vaishali

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Prakash Chandra, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, Spl. PP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 06-03-2025 Heard the parties.

2. The present appeal has been preferred:-

“against the order dated 30.05.2024 passed by the Court of learned Special Judge, SC/ST (POA) Act-cum-Additional District & Session Judge, Vaishali at Hajipur whereby the learned court has taken cognizance against the Appellants under section 364, 302 and 34 of I.P.C. along with section 3(2)(va) of SC/ST (POA) in connection with the Vaishali P.S Case No. 362 of 2020, under section 364/302/34 of I.P.C. along with section 3(2)(va) of SC/ST (POA) whereby the learned court has taken



cognizance illegally and arbitrarily without considering the facts that the alleged offence was occurred at Rajkot (Gujarat) and the learned court further has taken cognizance without appreciating facts and material available on record.”

3. As per the prosecution story, the informant alleged that the appellants herein took his son to Gujarat for work and he was telephonically informed about the death. The Police handed over the body to Md. Irfan on his instructions telephonically and later it arrived at the place of the informant where he saw the dead body of his son with burn injuries. Allegation is that the accused persons were not allowing him to check the body and as such, the F.I.R.

4. The Police investigated the matter and found the same to be untrue and accordingly vide an order dated 27.02.2021 submitted final form. The Court thereafter took up the matter on 30.05.2024 and on the basis of the averments made in the different paragraphs of the case diary and having found that the Supervising Officer has found the case to be true against all the F.I.R. named accused, took cognizance under section 364, 302 and 34 of the I.P.C. and section 3(2)(va) of the SC/ST Act.



5. Aggrieved, the present appeal.

6. It is the case of the appellants that admittedly, the death took place in Gujarat and as such, no F.I.R. could have been lodged in the State of Bihar much less by the Vaishali Police. He further submits that a perusal of the F.I.R. would show that the Police handed over the body to Md. Irfan which was brought to the place of the parents, he died of electrocution but section 302 of the I.P.C. has been added in the matter.

7. Learned Spl. PP, Mrs. Usha Kumari No.1 on the other hand opposes the prayer submitting that no F.I.R. was lodged at Rajkot (Gujarat) and in that background, when the informant got information at his place (Vaishali) about the death and received the dead body of son at native place alleging foul play and lodged F.I.R., the supervision note also supported the claim of the informant, in that background, the court concerned was fully justified in taking cognizance in the matter. Further submission is that when the charges will be framed, the appellants shall have ample opportunity to raise all the points.

8. Learned Spl. PP has further taken this Court to section 179 of the Code of Criminal Procedure (henceforth for short 'the Cr.P.C.') to submit that it has been incorporated there in that F.I.R. can be lodged beside where the act is done and/or



the consequences ensued.

9. It would be appropriate to incorporate Section 179 of 'the Cr.P.C.' which read as follows:-

Offence triable where act is done or consequence ensues.- When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.

10. He submits that a plain reading of the **section 179** of '**the Cr.P.C.**' would show that beside the local jurisdiction where the occurrence took place, it also incorporated **or such consequences has ensued.**

11. Admittedly, the dead body arrived at the home of the informant, it is not the case of the appellants that an F.I.R. was lodged at Rajkot (Gujarat) even for unnatural death of informant's son as has been made out by them. In that background, following section 179 of 'the Cr.P.C.', the court concerned was well within its right to take cognizance in the matter after the F.I.R. was lodged against the appellants.

12. Having gone through the facts of the case and the



materials on record as also the submissions of the parties, this Court has to take the line put forward by the learned Spl. PP, section 179 of the Cr.P.C. clearly envisages the place where the occurrence took place or where the consequences ensued. Here the case is that no F.I.R. was lodged in Rajkot (Gujarat) even if according to them, it was a case of unnatural death. It is to be noted that the informant was telephonically informed about the death of his son (which finds incorporated in the F.I.R.) at his native place and he suspected foul play. In that background, when the dead body arrived at the place of the informant and he suspected foul play, rightly lodged the F.I.R. The court has recorded that beside the witnesses who supported the prosecution story, the supervision note also found the case to be true.

13. This Court relies upon a case of **Hon'ble Supreme Court** in the case of **Rhea Chakraborty vs. State of Bihar and Anrs.** reported in **(2020) 20 Supreme Court Cases 184** in which the questions that were formulated are as follows:

A. (a) Whether this Court has power to transfer investigation (not case or appeal) under Section 406 CrPC.

(b) Whether the proceeding under Section 174 CrPC conducted by Mumbai Police to inquire into the unnatural death, can be termed as an



investigation.

(c) Whether it was within the jurisdiction of Patna Police to register the FIR and commence investigation of the alleged incidents which took place in Mumbai? As a corollary, what is the status of the investigation by CBI on the consent given by the Bihar Government.

(d) What is the scope of the power of a Single Judge of the Supreme Court exercising jurisdiction under Section 406 Cr.P.C and whether this Court can issue direction for doing complete justice, in exercise of plenary power.

Question (c) relates to the present case.

14. It is to be noted that this Court is only taking up the issue no. (c) which relates to jurisdiction of Patna Police to register the F.I.R.

15. In the said case of **Rhea Chakraborty** (supra), the contention of the petitioner was that the incidents entirely took place within the jurisdiction of the State of Maharashtra and as such, the complaint of the father of the deceased should have been forwarded to the Police Station at Bandra, Mumbai for conducting the investigation. However, despite want of jurisdiction, the complaint was registered at Patna only because of the political pressure brought upon Bihar Police Authorities.

16. The contention of the Union of India through its



Solicitor General in the said case of Rhea Chakraborty (supra) was that the Maharashtra Police was yet to register a F.I.R. and were only conducting limited enquiry under section 174 of the Cr.P.C. into the unnatural death of an actor. Thus, in the absence of the F.I.R. by the Maharashtra Police, the F.I.R. registered at Patna at the instance of deceased's father is the only case pending and thus when it is not the case that two cases are pending in two different States, the contention of the petitioner has to be rejected.

17. The Hon'ble Apex Court answered the issue no. (c) as follows:

B. Jurisdiction of Patna Police to register complaint

26. Respondent 2 in his complaint alleged commission of a cognizable offence and therefore, it was incumbent for the police to register the FIR and commence the investigation. According to the complainant, his attempt from Patna to talk to his son on telephone was thwarted by the accused persons and the possibility of saving the life of his son through father-son engagement. was missed out. In consequence, the complainant lost his only son, who at the appropriate time, as the learned counsel has vividly submitted, was expected to light the funeral pyre of the father.



27. Registration of FIR is mandated when information on cognizable offence is received by the police. The precedents suggest that at the stage of investigation, it cannot be said that the police station concerned does not have territorial jurisdiction to investigate the case. On this aspect the ratio in Lalita Kumari v. State of U.P.⁴ is relevant where on behalf of the Constitution Bench, P. Sathasivam, C.J. pronounced as under: (SCC p. 61. para 120)

"120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not."

C. 34. (a) Having regard to the law enunciated by this Court as noted above, it must be held that Patna Police committed no illegality in registering the complaint. Looking at the nature of the allegations in the complaint which also relate to misappropriation and breach of trust, the exercise of jurisdiction by Bihar Police appears to be in order. At the stage of investigation, they were not required to transfer the FIR to Mumbai Police. For the same reason,



the Bihar Government was competent to give consent for entrustment of investigation to CBI and as such the ongoing investigation by CBI is held to be lawful.

18. It is reiterated that while in the case of **Rhea Chakraborty** (supra), the Maharashtra Police was even conducting limited enquiry, in the present case there is nothing on record to show that the Gujarat Police even initiated limited enquiry on the unfortunate death of the informant's son. In that background, when the informant first received the information regarding the death of his son at his native place followed by the arrival of the dead body, as he suspected foul play, submitted the complaint before the Police and the Police as such was duty bound to lodge the F.I.R. and as recorded above, the witnesses in the case diary as also the supervision note supports the prosecution story.

19. There is nothing on record to show what prompted the Police to submit the final form showing the case to be untrue as no reason has been assigned to disbelieve the contents in the case diary as also ignore the supervision note. In that background, the court concerned was fully justified in taking cognizance in the matter under section 364, 302 and 34 of the I.P.C. and section 3(2)(va) of the SC/ST Act.



20. The appellants will have a chance to put forward their view points at the time of the framing of charge, presently, it lacks merit.

21. The Cr. Appeal (SJ) No. 57 of 2025 stands dismissed.

(Rajiv Roy, J)

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