

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11361 of 2016

Arising Out of PS. Case No.-247 Year-2010 Thana- CHAPRA TOWN District- Saran

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1. Kamlesh Kumar Singh, Son of Om Prakash Singh
 2. Om Prakash Singh Son of Late Mangal Singh
 3. Shailesh Kumar Singh Son of Om Prakash Singh
 4. Amresh Kumar Singh @ Amresh Kumar Son of Om Prakash Singh
 5. Manish Kumar Singh @ Manish Singh Son of Om Prakash Singh
 6. Rita Devi Wfie of Shailesh Kumar Singh
- All above are resident of Village- Rauja, Police Station- Chapra Town, District- Saran.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Rajan Kumar Singh Son of late Pashupati Singh Resident of Mohalla- Daldali Bazar, P.S. Chapra Town, District- Saran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajit Kumar Singh, Adv., Mr. Sanjay Kumar Verma, Adv.
For the O.P. No. 2	:	Mr. Suresh Prasad, Adv., Mr. Anurag Pandey, Adv.
For the State	:	Mr. Sunil Kumar Pandey, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 17-09-2024

The petitioners are accused persons in connection with Protest-cum-Complaint Case No. C-601 of 2012 (arising out of Chapra Town P.S. Case No. 247 of 2010), cognizance of which was taken by the learned Judicial Magistrate, Ist Class, Saran at Chapra, vide order dated 20th July, 2015, under Sections 304(B)/149/201/149 of the I.P.C.



2. Materials on record shows that Pashupati Singh lodged a complaint before the learned Chief Judicial Magistrate, Chapra on 20th October, 2010 alleging, inter alia, that marriage of her daughter Nandani Singh (since deceased) was solemnized with one Kamlesh Kumar Singh on 10th June, 2006 following Hindu rites and ceremony. Prior to the marriage during initial talk, the petitioners/accused persons demanded dowry and as per demand the father of the deceased gave dowry to the accused persons. After marriage Nandani Singh went to her matrimonial home. However, she was tortured by the accused persons/petitioners on repeated demands of dowry. The father of the deceased tried to satisfy their demands, but there was no end of such demands. On 11th October, 2010 at about 9:00 A.M., the complainant received a Telephonic message from her daughter that she was again being tortured by the accused persons on demand of dowry. Again on the same day at about 12:00 Noon he got an information from his son Om Prakash Singh that a villager of matrimonial home of the deceased informed him to immediately go to the matrimonial home of the deceased. The complainant and his relatives rushed to the village Rauja, but did not find any of the accused persons. They came to know from the villagers that all the accused persons fled away by a private Car along with the dead body of Nandini



Singh. They were also informed that Nandini Singh was burnt to death at her matrimonial home.

3. Learned Magistrate sent the said complaint under Section 156(3) of the Cr.P.C. to the jurisdictional Police Station, directing the S.H.O. to treat the said complaint as F.I.R. and register a specific case against the petitioners. On the basis of said order, the Police registered Chapra Town P.S. Case No. 247 of 2010, dated 01.12.2010, under Sections 323/498A/304(B)/201/34 of the I.P.C. and took up the case for investigation.

4. During investigation, it was ascertained by the Investigating Officer that death of the deceased was not caused at village Rauja in the District of Saran. On the other hand, from the enquiry report under Section 174 of the Cr.P.C., it was ascertained that the death of the deceased was caused receiving burn injury at village Chhatrapur within P.S. Rudrapur, in the District of Udham Singh Nagar, Uttarakhand on 10th October, 2010 at about 9:40 P.M. It was also learnt from the enquiry report under Section 174 of the Cr.P.C. that a case being P.M.R. No. 467 of 2010, dated 11th October, 2010 was registered and Police conducted initial investigation as to the cause of death of the deceased Nandini Singh. During investigation, it was found that Nandini Singh died under circumstances raising a reasonable suspicion that some other



person had committed an offence and her death was caused within seven years of her marriage. The documents relating to enquiry under Section 164 of the Cr.P.C. was placed before the Sub Divisional Magistrate (Nayab Tahsildar), M.T.(West) Haldwani and after obtaining his signature the deceased's dead body was handed over to her husband for cremation.

5. On due examination of the enquiry report under Section 174 of the Cr.P.C., the Investigating Officer of Chapra Town P.S. Case No. 247 of 2010 found that the entire complaint against the petitioners was vitiated by the mistake of fact and accordingly Police submitted Final Report against the petitioners.

6. The de facto complainant submitted a Protest-cum-Complaint petition against the said Final Report. The learned Magistrate examined the de facto complainant and other witnesses and took cognizance of offence under Sections 304(B)/149/201/149 of the I.P.C.

7. The petitioners have approached this court for quashing of the order of cognizance on the ground that the impugned order does not disclose any subjective consideration and satisfaction of the learned Magistrate before taking cognizance of offence against the petitioners. It is found from the investigation of the Chapra Town P.S. Case No. 247 of 2010 that no incident of



setting the bride in fire did take place at village Rauja within Chapra Town Police Station. The incident took place at Chhatrpur in the State of Uttarakhand, which is situated more than 1,000 K.M. away from village Rauja. It is not possible for any person to reach Chhatrpur from Rauja by a private Car in one day. As per the statement made by the complainant, the deceased received burn injury and died on 11th October, 2010 around 12:00 Noon, but the enquiry report under Section 174 of the Cr.P.C. suggest that the deceased died receiving burn injury at Chhatarpur on 10th October, 2010 at about 9:40 P.M. The complainant tried to alter the place of occurrence and narrated that the incident took place at the matrimonial home of Nandini Singh to rope all the accused persons in a criminal case.

8. However, from the evidence collected by the Police during investigation, it is found that the deceased and her husband stayed alone in village Chhatrpur in the State of Uttarakhand and there was no allegation made by the deceased in the jurisdictional Police Station of Chhatrpur that she was tortured on demand of dowry by her husband.

9. Therefore, the order of cognizance under Sections 304(B) of the I.P.C. was wrongly taken against the petitioners and the part of order of taking cognizance under Section 304(B) of the



I.P.C. on the basis of Protest-cum-Complaint petition against the petitioners is quashed and set aside.

10. However, the petitioners are liable to face trial under Sections 498A/34 of the I.P.C.

11. Since the case is pending from 2010, the accused persons/petitioners are directed to surrender before the trial court within three weeks from the date of this order and the learned Magistrate shall take all endeavour to dispose of the case on conclusion of trial as expeditiously as possible.

12. With the above order, the instant Cr. Misc. case is partly allowed.

13. The order be sent to the court below forthwith for information and necessary action.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	

