
(2007) 04 PAT CK 0168

In the Patna High Court

Case No : Criminal Miscellaneous No. 4631 of 2007

Bishwanath Yadav and Others

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 19-04-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 201, 302, 306, 34, 498

Citation : (2007) PLJR 661

Hon'ble Judges : Ghanshyam Prasad, J

Bench : Single Bench

Advocate : Vikram Singh, for the Appellant; Maya Nand Jha, for the Respondent

Final Decision : Allowed

Judgement

Ghanshyam Prasad, J.—This application u/s 482 of the Code of Criminal Procedure has been filed to quash the order dated 9.11.2006 passed by the Chief Judicial Magistrate, Purnia in K. Nagar P.S. Case No. 94/2005 thereby and thereunder the court below has taken cognizance under Sections 306, 498, 201/34 of the Indian Penal Code against the petitioners. Petitioner No. 1 Bishwanath Yadav lodged fardbeyan for murder of his daughter Gayatri Devi against his son-in-law. Jamun Yadav and other family members. The police registered a case bearing K. Nagar P.S. Case No. 94/2005 under Sections 302/201/34 of the Indian Penal Code. However, after investigation the police submitted charge-sheet bearing charge-sheet No. 280/05 against only Jaman Yadav u/s 306/201 of the Indian Penal Code and kept the investigation pending against rest of the accused persons. These petitioners were shown in the column of witnesses. Later on the police submitted supplementary charge-sheet bearing charge-sheet No. 235/ 06 against other named accused as well as these petitioners. These petitioners were also shown in witness column of the charge-sheet. Meaning thereby, these petitioners are accused as well as witnesses in the case.

2. Learned counsel for the petitioners submitted that the police in collusion with the accused persons submitted supplementary charge sheet in order to create confusion and to take benefit. It is next to impossible as to why these petitioners would kill their own married daughter/sister for no fault. It is further submitted that there is no tangible material in the case diary to show any hand of the petitioners in commission of the crime. The victim died in her Sasural and it was sasural people who are responsible for commission of the crime. The learned Chief Judicial Magistrate without applying his mind has taken cognizance against these petitioners also even u/s 498A of the Indian Penal Code. The prosecution of the petitioners under the circumstances is sheer misuse of process of the court.

3. Considered the submission of learned counsel for the petitioners as well as the state. I have no doubt in my mind that these petitioners unnecessarily have been implicated in this case. A man cannot be made witness against himself. The police without any material has submitted charge-sheet against the petitioners who are father and brothers of the deceased lady. The order of the Chief Judicial Magistrate taking cognizance against these petitioners is perverse and absurd. Having regard to the facts and circumstances of the case, this application is allowed and the impugned order of cognizance is hereby quashed in respect of these petitioners only.