

(2019) 07 PAT CK 0056

In the Patna High Court

Case No : Criminal Miscellaneous No. 4040 Of 2015

Nand Kishor Patel And Ors

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 05-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 120(B), 304

Citation : (2019) 07 PAT CK 0056

Hon'ble Judges : Birendra Kumar, J

Bench : Single Bench

Advocate : Shiv Shankar Prasad Yadav, Ravi Bhushan Pd. Sinha, Renu Kumari, Jharkhandi Upadhyay

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.
2. Petitioners are accused in connection with Complaint Case No.2617 of 2010. They are aggrieved by order of cognizance for offences under Sections 304(B) and 120(B) I.P.C. and 3/4 of Dowry Prohibition Act as well as issuance of process to face trial by order dated 09.09.2011 passed by the learned Judicial Magistrate-1st Class, Chapra.
3. According to complaint petition, the daughter of the informant (opposite party No.2) was married on 28.06.2010 with petitioner-Rakesh Kumar Patel. There is allegation that soon after marriage, there was demand of a motorcycle and the victim was pressurized for fulfillment of the demand. When the victim expressed the inability of her father to fulfill the demand, she was being tortured and on 07.07.2010, the victim was poisoned to death.
4. The challenge is on the ground that the same complainant had filed a written report to the police informing death of the victim and the written report dated 07.07.2010 at Annexure-3 would reveal that there is no whispering that there was demand of dowry and torture for the same rather the informant is specific

that there is no such suspicion against anyone regarding commission of death. The said written application was registered as U.D.Case No.08 of 2010.

5. Learned counsel for the complainant-opposite party No.2 submits that the complainant has specifically mentioned in the complaint petition that the so called written report is not of the complainant rather he had put his signature on blank papers and the same is written by some other person.

6. The cognizance order was challenged on the ground that the Doctor, who performed postmortem examination, did not find any sign of commission of any offence nor any external injury was found on the person of the deceased.

7. Learned counsel for the complainant submits that the Doctor had sent viscera for forensic examination and the forensic examination report is still awaited. There is specific case in the complaint petition that the victim was poisoned to death. Hence, non-finding of any external injury could not go against the case of the complainant. Further contention is that the claim of the petitioners that the victim was suffering from jaundice, since prior to her marriage, is not substantiated by any prescription of Doctor nor the postmortem report would reveal that the Doctor found any abnormality in the liver or any other internal part of the body.

8. The disputed question of facts cannot be gone into at the stage of interference with the cognizance order. The complaint petition as well as other materials clearly disclose allegation of commission of cognizable offence by the petitioners and presumption of dowry death is against the petitioners. Hence, this Court is not inclined to interfere with the impugned order. As such, this application stands dismissed as devoid of any merit.