

(2020) 01 PAT CK 0078

In the Patna High Court

Case No : Criminal Miscellaneous No. 84516 Of 2019

Sangeeta Singh @ Sangeeta Devi And Anr

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 06-01-2020

Acts Referred:

Indian Penal Code, 1860 — Section 34, 302, 306
Code Of Criminal Procedure, 1973 — Section 227, 228

Citation : (2020) 01 PAT CK 0078

Hon'ble Judges : Mohit Kumar Shah, J

Bench : Single Bench

Advocate : Amrendra Kumar

Final Decision : Dismissed

Judgement

1. The present petition has been filed for quashing the order dated 06.11.2019 passed in Sessions Trial No. 133 of 2014 by the learned A.D.J.- II,

Madhepura whereby and whereunder charges have been framed against the petitioners under Sections 306/34 of the Indian Penal Code in connection

with Shrinagar P.S. Case No. 97 of 2012 dated 28.11.2012.

2. The brief facts of the case are that upon a written complaint filed by the informant of this case, namely, Hari Shankar Singh, before the Officer-in-

charge, Shrinagar Police station, District Madhepura on 28.11.2012, the FIR in question was instituted against unknown persons under Section 302 of

the Indian Penal Code. In the said fardbeyan of the informant, it has been stated that at about 7 o'clock, the informant received a call on his

mobile that his daughter has committed suicide, whereafter the informant along with his relatives had gone to the place of occurrence at Israin Bela,

where the daughter of the informant was lying dead on the Veramdah and blood

had clouted on her neck. It is further alleged in the fardbeyan of the informant that the incident did not appear to be a case of suicide and in fact, the daughter of the informant had been killed. It is submitted that the place where the dead body was found, belongs to the in-laws of the daughter of the informant.

3. It appears that the learned court below had taken cognizance for the offence punishable under Section 306/34 of the Indian Penal Code by an order dated 05.02.2014. The said order of cognizance dated 05.02.2014 was challenged before this Court in Cr. Misc. No. 10722 of 2014, however, a coordinate Bench of this Court, vide order dated 11.03.2014, had dismissed the said petition on the ground that cognizance has been rightly taken on the basis of the materials collected during the course of investigation.

4. The learned counsel for the petitioners has submitted that the present case has been lodged against the petitioners in order to exploit them. It is further submitted that the admitted position is that the son-in-law of the informant have died earlier and the daughter of the informant has committed suicide on account of frustration and the petitioners herein have been falsely implicated merely on suspicion inasmuch as firstly, there is no eye witness to the said occurrence and secondly, the petitioners are residing in Jharia (Dhanbad) i.e. in the State of Jharkhand with their children and doing there own business, hence, they have no connection in any manner whatsoever with the alleged occurrence. Thus, it is submitted by the learned counsel for the petitioners that the learned court below has erred in law, while framing charge against the petitioners and the same is an abuse of the process of law.

5. Per contra, the learned A.P.P. for the State has submitted that the records of this petition would show that the petitioners have deliberately suppressed the order dated 2nd September, 2019 passed by the learned 2nd Additional Sessions Judge, Madhepura, whereby and whereunder the discharge petition filed by the petitioners appears to have been dismissed and only a part of the said order i.e. page-3 thereof has been annexed, which would bear it out that the petitioners were torturing the deceased for the share in the property of the family, since she was a widow of the family of the petitioners and after the death of her husband, she was living at Purnia, however, prior to the date of occurrence, she had come to the house of the

petitioners and committed suicide. It is further submitted by the learned A.P.P. for the State that a bare perusal of page-3 of the order dated 2nd

September, 2019 passed by the learned 2nd Additional Sessions Judge, Madhepura would show that sufficient materials are available as against the

petitioners for framing charge against them under Section 306/34 of the Indian Penal Code, hence the discharge petition filed by the petitioners was

rightly rejected.

6. I have heard the learned counsel for the parties and perused the materials on record and I find that the challenge of the petitioners to the order

dated 05.02.2014 passed by the learned Chief Judicial Magistrate, Madhepura had failed inasmuch as their quashing petition bearing Cr. Misc. No.

10722 of 2014 was dismissed long back by a co-ordinate Bench of this Court vide order dated 11.03.2014 and moreover, the prayer of the petitioners

for discharging them from the present case has also been rejected inasmuch as the learned court of 2nd Additional Sessions Judge, Madhepura, by an

order dated 2nd September, 2019 has rejected the discharge petition filed by the petitioners. This Court further finds that the aforesaid order dated 2nd

September, 2019, dismissing the discharge petition filed by the petitioners has not been challenged by the petitioners, hence, I am of the opinion that in

absence of challenge to the order dismissing the discharge petition of the petitioners, the present petition, whereby and whereunder challenge has been

only made to the order dated 06.11.2019 passed by the learned 2nd Additional Sessions Judge, Madhepura, framing charges against the accused

persons including the petitioners, under Sections 306/34 of the Indian Penal Code, only after the petitioners had denied the same and have sought for

trial of the case, is not only an abuse of the process of the court but the order dated 6.11.2019, by which charges have been framed against the

petitioners, is indefensible and inarguable as also unchangeable.

7. At this juncture, it would be relevant to mention here that it is a well settled law that the Courts should be slow in interdicting the trial against the

accused persons and the accused persons should be discouraged from protracting the trial and preventing culmination of the criminal cases by

resorting to uncalled for and unjustified litigation. It is equally a well settled law that at the stage of framing of charge under Section 228 Cr. P.C. or

while considering the discharge petition filed under Section 227 Cr. P.C., it is not

for the Magistrate or the Judge concerned to analyze all the materials including the pros and cons, reliability or acceptability etc. and the learned Judge concerned has to appreciate their evidentiary value, credibility or otherwise of the statement, veracity of various documents at the time of trial and take a decision one way or the other. Thus, the court below has to be prima facie satisfied as to whether there is sufficient ground for proceeding against the accused and at the stage of considering the discharge petition under Section 227 Cr. P.C., or framing of charges, the standard of test, proof and judgment, which is to be applied finally before finding the accused guilty or otherwise, is not exactly to be applied inasmuch as the prosecution evidence is yet to commence.

8. Having regard to the facts and circumstances of the case, for the reasons stated herein above, coupled with the fact that the discharge petition filed by the petitioners has though been dismissed by the learned court below vide order dated 2nd September, 2019, however, the petitioners have thought it proper not to challenge the same and instead the subsequent order dated 06.11.2019 has been challenged whereby the court below has framed charge under Section 306/34 of the Indian Penal Code against the petitioners herein, after the petitioners have denied the charges levelled against them and have claimed to be tried, this Court finds that no case whatsoever has been made out by the petitioners so as to warrant any interference by this Court. Moreover, the challenge of the petitioners to the order of cognizance dated 05.02.2014 has also failed inasmuch the petition filed by the petitioners in this regard has been dismissed by a co-ordinate Bench of this Court and further, the learned court below has found sufficient material against the petitioners, on perusal of the records of the case, for the purposes of framing of charge as against them, hence I find that there is no merit in the present petition, thus the same is dismissed.