
(2012) 06 PAT CK 0049
In the Patna High Court
Case No : Criminal Writ No. 697 of 1999

Shardanand Singh

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 27-06-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 302

Citation : (2013) 1 PLJR 392

Hon'ble Judges : Aditya Kumar Trivedi, J

Bench : Single Bench

Advocate : Anil Kumar Singh, for the Appellant; Rajiv Kumar Singh, for the Respondent

Final Decision : Dismissed

Judgement

Aditya Kumar Trivedi, J.—At an initial stage Brahmadeo Singh filed instant petition with a prayer to direct the authorities, Respondent Nos.1 to 6 to apprehend Nand Kishore Singh, Respondent No.10 who happens to be an accused of Singhia P.S. Case No. 5/68, G.R. No.438/68 registered u/s 302 of the IPC as well as for directing the other respondents, Respondents No. 7 to 9 to make aforesaid record available and in an alternative to reconstruct the record. Subsequently, as per execution report the Respondent No.10 has been found dead and so in his place his wife Asha Devi has been impleaded. In likewise manner, the relief has also been amended to the extent of directing respondents to provide compensation on account of laches having on their part in not apprehending the sole accused, Respondent No.10. In due course of time, petitioner Brahmadeo Singh died and on account thereof one Sharda Nand Singh was substituted in his place.

2. Prosecution case as is evident from Annexure-1, First Information Report recorded on the basis of Fardbeyan of Md. Ismael, Chaukidar on 28.04.1968 alleging inter-alia that Nand Singh son of Bala Singh has committed murder of his Bhaujai w/o Brahmadeo Singh by means of striking with iron rod. After

registering case as Singhia P.S. Case No. 5/1968 the investigation commenced, concluded and charge-sheet was submitted u/s 302 IPC showing the sole accused as absconder. Since thereafter, the husband of deceased, original petitioner running pillar to post for getting the accused apprehended who, as per his assertion was discharging his duty as teacher at Middle School, Harauli, P.S. Kisheshwar Asthan, Distt-Darbhanga and after his retirement was residing at his native place prayed before the court wherefrom times without number warrant of arrest was issued and subsequently asked for an execution report but they all gone in vain without giving fruitful result. Hence, this petition.

3. Before coming to merit of the case, the fact as emerges out from the pleading is that late Bala Singh had three sons. The eldest one, Brahmadeo Singh, original petitioner, the second one, Shardanand Singh, the substituted petitioner and the third one, Nand Singh, deceased and accused.

4. It has been submitted on behalf of the petitioner that in spite of having death of original petitioner the relief so sought for by way of compensation in not apprehending the accused Nand Singh by the State machinery till his death has caused irreparable loss, mental agony and frustration and therefore the State is liable for payment of compensation for the fault committed by its employee. Therefore, petitioner is entitled for compensation as pleaded and for that appropriate amount be fixed by the Court itself. Also referred these following decisions:-

1. 2011 1 SCC Cr. 1109 Rubabbuddin Sheikh V. State of Gujrat.
2. 2011 1 SCC (Cr.) 171 Jaywant P. Sankpal V.Suman Gholap.
3. Bhim Singh, MLA Vs. State of Jammu & Kashmir and Others, .
4. Saheli, A Women's Resources center, Through Ms Nalini Bhanot and Others Vs. Commissioner of Police Delhi Police Headquarters and Others, .
5. Sebastian M. Hongray Vs. Union of India (UOI), .
6. Rudul Sah Vs. State of Bihar and Another, .

5. On the other hand, learned AC to G.A.VIII opposed the prayer and raised questions over maintainability of the instant petition. Further submitted that the prayer was maintainable till survival of original petitioner, Brahmadeo Singh. After his death the cause has evaporated. As such, the substituted petitioner could not be held entitled for asking compensation.

6. I have gone through the relevant decisions filed on behalf of petitioner. It is true that State is liable to pay compensation for the fault committed at the hands of its employee. Original petitioner on account of being aggrieved due to murder of his wife by Nand Singh and further having failed to get him apprehended by police officials as directed by the court concerned was a cause to be taken into account. But as soon as he died, the substituted petitioner who happens to be his another brother put his leg in the shoes of original petitioner, Brahmadeo Singh.

Moreover, he has failed to place the relevant document to suggest that at least he was an eyewitness to occurrence and further was interested to proceed therewith. After the death of original petitioner, the grievance whatever may be got buried. None of the decisions so cited on behalf of the petitioner favours plea of petitioner. Consequent thereupon, the prayer in its present form appears to be non maintainable. Hence, the petition is dismissed.