

Patna High Court - Orders

Malti Devi vs State Of Bihar on 24 June, 2011

IN THE HIGH COURT OF JUDICATURE AT PATNA

CR.MISC. NO.30881 OF 2008

MALTI DEVI, WIFE OF PARAS NATH TIWARI, RESIDENT OF VILLAGE  
MADEHPURA, POLICE STATION HATHAURI, DISTRICT MUZAFFARPUR

VERSUS

THE STATE OF BIHAR

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FOR THE PETITIONER :- MR. SATYAVRAT VERMA, ADVOCATE FOR THE S T A T E :- MR.  
JHARKHANDI UPADHYAY, A.P.P.

\*\*\*\*\* 24/06/2011 Heard Counsel for the petitioner and the A.P.P.

appearing on behalf of the State.

This application has been filed challenging the order dated 23.05.2008 passed in Hathauri Police Station Case No. 116 of 2007 (Trial no. 2810 of 2008) by which the Chief Judicial Magistrate, Muzaffarpur has taken cognizance for the offences alleged to have been committed under Section 302 and 201 of the Indian Penal Code.

Learned Counsel for the petitioner pointed out that the petitioner who is the mother-in-law of the deceased lady had instituted a U.D. Case when she found that her daughter-in-law was burnt to death. It is said that this petitioner had gone to attend a wedding ceremony in the neighbourhood when the occurrence is said to have taken place. Later on, post mortem was conducted, which indicates that the lady had died due to strangulation. 4 years after the preparation of the post mortem report, the case was instituted under Section 302 of the Indian Penal Code against the petitioner and all the other in-laws of the deceased lady including the husband. It is submitted that during investigation, it transpired that the other family members of the deceased lady including her husband lived at Delhi and as such, the case under Section 302 of the Indian Penal Code was found to be 'not true' against them. The petitioner was the only person who was accused in this case.

Counsel for the petitioner submits that on perusal of the case diary, there is no material to indicate that the petitioner was present when the occurrence is said to have occurred. It has been reported that she was away from her house and was attending a marriage ceremony in the neighbourhood. It is also submitted that the mother and other family members of the deceased lady had filed no complaint against the mother-in-law, which indicates that they did not raise any suspicion regarding the manner of death of the deceased lady. In these circumstances, Counsel for the petitioner submits that there are insufficient materials against the petitioner to send her up for the trial.

These aspects of the matter should be considered by the Court below who will pass a reasoned order discussing all the circumstances surrounding the occurrence and the materials in the case diary which would indicate the involvement of this petitioner in the alleged crime.

This application is disposed of with liberty to the petitioner to raise these issues at the time of framing of the charges, if not already framed.

Anand

( Sheema Ali Khan, J. )