

In the Court of Addl.District & Sessions Judge-VII, Gopalganj

S.Trial No. 239/2019

Order

27-05-2019 Record placed before me for order on the petition of accused persons U/s. 227 and 228 Cr.P.C.

Heard the learned counsel for the accused persons on the petition dated 17-5-2019 filed U/s 227 and 228 Cr.P.C. and learned P.P. for the State.

Learned counsel appearing on behalf of the accused persons submitted that the accused persons are innocent and they have falsely been implicated in this case at the instance of the enemies. It has also been submitted that F.I.R. has been lodged after inordinate delay without any explanation and no offence U/s. 304(B) of the I.P.C. is made out from the facts and circumstances of the case. It has further been submitted that the Hon'ble Court has held at the time of granting bail of the accused that the present case is a case of suicide, therefore Offence U/s. 304(B) I.P.C. does not arise. It has further been submitted that accused Jaffar Abbas was not present in the Village on the alleged date of occurrence and materials collected during course of investigation are inadmissible in the evidence and witnesses examined by the I.O. have supported the factum of suicide and non-presence of Jaffar Abbas. On these grounds prays to pass an order U/s. 227 and 228 Cr.P.C.

On the other hand Addl.P.P. appearing on behalf of the State vehemently opposed the submissions and finally prays to dismiss the petition of accused persons and submitted that the petition filed by the defence is not legally maintainable either in law or on facts. It has also been submitted that in para 7 of the petition the plea of alibi has been taken. The plea of alibi has to be proved by the accused during course of trial and burden of proof lies upon him as required U/s 106 of the Evidence Act and there is ample evidence against the accused persons in the case diary.

On the basis of fardbeyan of the informant Abdul Wahab Thawe P.S.Case No. 57/18 dated 19-4-18 has been lodged against Seven accused persons U/s.304(B)/34 I.P.C of the I.P.C. From perusal of F.I.R. it appears that the deceased Juhi Praveen was married on 10th Oct 2017 with muslim rites and rituals and she was subjected to cruelty for demand of dowry of Rs. 2,00,000/-cash for construction of a house at Siwan and due to non-fulfilment of said demand all accused persons with conspiracy killed the niece of informant on 18-4-2018 and poured kerosene oil on her

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body and bunt her.

Perused the L.C.record, case diary. P.M. report , inquest report and F.S.L. report ,it appears that after completion of investigation the I.O. has submitted charge-sheet U/s.304(b)/34 of the I.P.C. against the accused persons namely Jaffar Abbas, Tara Hussain and Noor Jannat and investigation is pending against remaining accused persons. Witnesses examined U/s 161 of Cr.P.C. have supported the prosecution case and on the basis of charge-sheet learned lower Court has taken cognizance and case was committed to the Court of Sessions.

Considering the above facts & circumstances and keeping in view the material available on the record as discussed above I came to the conclusion that there is sufficient material against the accused petitioners to frame the charge U/s. 304(B)/34 of the I.P.C.

Accordingly, petition filed on behalf of the accused persons dated 17-5-2019 U/s. 227 and 228 Cr.P.C.is hereby rejected. Put up on 01-06-2019 for framing of charge. All accused persons are directed to physically present on the date fixed.

(Dictated)

A.D.J.VII,