

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24550 of 2020

Arising Out of PS. Case No.-57 Year-2020 Thana- KATIHAR MUFFASIL District- Katihar

Lalan Kumar Singh @ Pintu aged about 43 years S/O Jaiprakash Singh
Resident Of Mohalla-Indrapuri, P.S.-Katihar, District-Katihar

... Petitioner

Versus

The State Of Bihar

... Opposite Party

With

Criminal Miscellaneous No. 24626 Of 2020

Arising Out Of Ps. Case No.-57 Year-2020 Thana- Katihar Muffasil District- Katihar

Kishore Kumar Singh aged about 59 years S/O Late Anil Kumar Singh
Resident Of Mohalla - Mirchaibari, (Nayatola), P.S. - Sahayak, District –
Katihar

... Petitioner

Versus

The State Of Bihar

... Opposite Party

Appearance :

(In Criminal Miscellaneous No. 24550 Of 2020)

For The Petitioner : Mr.Raghvendra Kumar Singh, Advocate

For The State : Mr.

For the informant Mr. Arun Kr.Mandal, Advocate

(In Criminal Miscellaneous No. 24626 Of 2020)

For The Petitioner : Mr.Raghvendra Kumar Singh, Advocate

For The State : Mr.

For the informant Mr. Arun Kr.Mandal, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

CAV JUDGMENT

Date : 18th May, 2021.

These matters are taken up for consideration through
Video Conferencing.

2. With the consent of the parties, Cr.Misc.No. 24550 of
2020 and Cr.Misc.No. 24626 of 2020 are being heard together as
they arise out of the same police station case number and same



impugned order dated 5.3.2020 have been challenged in both the petitions.

3. In both the petitions, the petitioners have prayed for quashing of order dated 5.3.2020, passed by the learned Judicial Magistrate, First class, Kastihar in GR No.886 of 2020, arising out of Mufassil Police Station Case No. 57 of 2020 registered for the offence punishable under sections 306, 120B/34 of the Indian Penal Code by which non bailable warrant of arrest has been issued against all the four non FIR accused persons including the petitioners.

4. In the FIR the informant, brother of the deceased, has alleged that he came to know that his younger brother, sister-in-law and their four years' old son were found lying dead in the house of one Pramod Kumar Yadav where they were living on rent. A suicide note was also found in the house which contains the entire reasons for their murder/suicide on the basis of which police registered the case against unknown.

5. Learned counsel for the petitioners submits that the petitioners are not named in the written report of the informant on the basis of which FIR has been lodged. It is further submitted that the petitioners have been made accused in the case on the basis of



vague reference of their names in the so-called suicide note. It is further submitted that save and except reference of their names in the so-called suicide note, there is no other material or evidence collected during course of investigation to show any direct or indirect incitement or any active role of the accused petitioners in instigating informant's brother in the commission of crime. It is also the case of the petitioners that after six days of the lodging of the FIR, non bailable warrant has been issued without their being any cogent material available on record. It is further submitted that these petitioners had lent some money to the deceased which is no offence. It is submitted that from bare perusal of the entire suicide note no specific allegation has been made against these petitioners and in fact none of the relatives of the deceased have suspected these petitioners. In support of his contentions, learned counsel has relied on the following decisions:-

a) Judgment dated 27.11.2020, passed by Hon'ble Apex Court in Cr.Appeal No.742 of 2020, arising out of SLP (Cri.) No. 5598 of 2020 (in case of Arnab Manoranjan Goswami Vs. the State of Maharashtra and others) and other analogous appeals.



b) Order dated 27.4.2020, passed by Hon'ble Jharkhand High Court in Cr. M. P. No.2722 of 2019 (Md. Rustam Alam @ Rustam and others Vs. the State of Jharkhand) and

c) Judgment dated 8.3.2018, passed by a co-ordinate bench of this Court in Cr.Misc. No. 629 of 2018.

6. Learned counsel for the petitioners submits that ingredients of section 306 of the IPC are not available in the instant case, as such, no offence is made out against the petitioners. Reference, in this regard, is made to paragraphs 46 to 51 of the case of **Arnab Manoranjan Goswami (supra)**.

7. *Per contra*, learned counsel for the informant opposes the prayer of these petitioners. He submits that during course of investigation police took evidence of the relatives of the deceased contained in several paragraphs of the case diary which reveals that petitioners used to lend money and realize exorbitant amount. When the informant's brother failed to pay the interest or the principal amount, even after selling his land, petitioners and others, named in the suicide note subjected him to all sorts of torture and humiliation even in full public view. They also took signature of the deceased on blank papers and also got blank cheques duly signed by the deceased and thereby created a situation in which this deceased felt frustrated and ended the life of



whole family. During investigation, from the perusal of the Call Details Report (CDR) it has also been gathered that the petitioners were in conversation with the informant's brother on the date of occurrence. Relying on the inquest report, he submits that the inquest report reveals that the hands of informant's brother and his wife were tied from behind, and once the hands of a person are tied from behind, the same person cannot get himself hanged in the ceiling for committing suicide and thus it is a case of murder. More so, instant petitions have become infructuous in view of the fact that process of section 82 Cr.P.C. has already been issued on 8.6.2020 against these petitioners. Learned counsel for the informant submits that the decisions cited by learned counsel for the petitioners are not applicable in the facts and circumstances of the instant case.

8. Having heard learned counsel for the parties and on perusal of the impugned order it transpires that the learned Magistrate has considered the facts and circumstances of the case and material on record and then passed the impugned order. It is not necessary for the learned Magistrate to reiterate and restate the reasons mentioned by the police officer in the application. Law does not expect the learned Magistrate to reiterate and restate the reasons given in the application and materials available on record



while passing the impugned order. Moreover, the decisions cited by the learned counsel for the petitioners are on different issues and in different facts and circumstances. In none of the cases, issuance of non-bailable warrant was involved or discussed. In the case of **Arnab Manoranjan Goswami (supra)**, jurisdiction of the High Court under Article 226 and section 482 of the Cr.P.C. and grant of bail of the appellant were the issues which were discussed and decided, whereas in two other decisions process under sections 82 and 83 of the Cr.P.C. were involved.

9. In the aforesaid facts and attending circumstances of the case, both the petitions are dismissed being devoid of merit.

(Prabhat Kumar Singh, J)

Shashi

AFR/NAFR	NAFR
CAV DATE	26.4.2021
Uploading Date	19.5.2021.
Transmission Date	

