

Ram Kumari Devi Vs. the State of Bihar

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Court : Patna

Decided On : Jul-11-2007

Judge : Navin Sinha, J.

Acts : Indian Penal Code (IPC) - Sections 34, 302, 328, 438(2) and 498A

Appeal No. : Criminal Miscellaneous No. 56110 of 2006

Appellant : Ram Kumari Devi

Respondent : The State of Bihar

Disposition : Application allowed

Judgement :

Navin Sinha, J.

1. Heard learned Counsel for the petitioner and learned Counsel for the State.
2. The petitioner apprehends arrest in a police case under Section 302, 328, 498A/34 of the Penal Code.
3. The petitioner is stated to be the second wife. The deceased was the first wife. The first information report itself acknowledges peaceful coexistence of the deceased with the petitioner for 15 years.

4. The submission from the case diary is that the deceased committed suicide of her own volition. The post-mortem report records that there is no external or internal injury on the body of the deceased.

5. This Court had called for the viscera report preserved on 8.6.2005. Paragraph 71 of the case diary which contains the post-mortem report dated 8.6.2005 states that the viscera shall be destroyed after six months. This Court queried with regard to the result of the viscera, which was preserved for examination, when an affidavit was filed by the Investigating Officer that there have been several Investigating Officer in the present case and that the present Investigating Officer had forwarded the viscera for examination on 19.4.2007. The affidavit is contradictory in view of the post-mortem report. In any event, it is difficult to appreciate why the viscera was not sent for examination for two years, if it is still available. This Court in Cr. Misc. No. 26622 of 2006 (Md. Sayum v. The State of Bihar) has already passed a detailed order how the viscera, a crucial evidence during investigation is treated with disdain and allowed to putrify by the Investigating Officer. The present is another such case. It is very difficult to understand what kind of supervision is conducted by the superior authority in the investigation. The flurry of activity is only after the Court started making queries. The grant of anticipatory bail to the present petitioner is primarily attributable to the Investigating agency, who have clearly facilitated the same.

6. Let the petitioner, Ram Kumari Devi surrender before the court below within four weeks when she shall be enlarged on bail upon furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of C.J.M., Darbhanga in Kusheshwar Asthan P.S. Case No. 77 of 2005, subject to the conditions laid down under Section 438(2) Cr.P.C.

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