

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Revision No. 169 of 2022

Pinku Bhuiya @ Pinku Kumar @Pinku Bhuiyan son of Srinivas Bhuiya, resident of H. No. 11/1139, Nand Nagar, Kanu Bhatta, Bhuiyadih, P.O. and P.S. Sidhgora, Town- Jamshedpur, District-East Singhbhum (Jharkhand) **Petitioner**

Versus

State of Jharkhand **Opp. Parties**

CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOWDHARY

For the Petitioner : Mr. Anurag Kashyap, Advocate

For the Opp. Parties : Mr. Vineet Kumar Vashistha, A.P.P.

05/29.02.2024

Learned counsel for the parties are present.

2. This revision application has been filed by learned Special Judge, FTC (CAW) at Jamshedpur, whereby the application filed by the petitioner under section 27 of the Code of Criminal Procedure for discharge has been rejected in connection with S.T. Case No. 191/2021 and M.C.A. No. 3596 of 2021 (arising out of Sidhgora P.S. Case No. 166/2020 corresponding to G.R. Case No. 512/2021 registered for the offence under Section 304(B)/34 of the Indian Penal Code pending in the Court of learned Special Judge, FTC (CAW) at Jamshedpur.

3. Learned counsel for the petitioner while assailing the impugned order refusing to discharge the petitioner has submitted that the charge sheet was submitted against the petitioner under section 304B of the Indian Penal Code and the petitioner is husband of the deceased. The learned counsel submits that the learned court below has not properly considered the petition filed by the petitioner. He has also submitted that in order to have any legal presumption there should be some material on record.

4. The learned counsel appearing on behalf of the opposite party- State while opposing the prayer has submitted that at the stage of discharge, only the materials in the case diary and only the prima facie case is required to be seen and so far as the presumption in connection with Section 304B of the IPC is concerned, the same is also to be seen in the light of the Evidence Act. He submits that impugned order does not call for any interference but the petitioner will have his opportunity to take all the plea at the stage of trial. He submits that

these are essentially matters of trial and at the stage of discharge the impugned order has been rightly passed.

5. After hearing the learned counsel for the parties and considering the fact that as per the impugned order the death of the wife of the petitioner had taken place within seven years of marriage and the learned court below while considering the petition for discharge has referred to the statements recorded in the case diary wherein the informant in the re-statement has supported the allegations contained in the written report and he had also supported the allegation of demand of dowry and ill treatment and torture of his daughter by the accused person. The cause of death as mentioned in the post mortem report is asphyxia as a result of hanging.

6. Considering the nature of case and the materials discussed in the impugned order , this Court is of the considered view that the impugned order refusing to discharge the petitioner does not call for any interference. Accordingly, this petition is dismissed.

7. Any observation made by this Court will not prejudice the case of the petitioner during trial.

8. Let this order be communicated to the Court concerned through FAX.

(Anubha Rawat Choudhary, J.)

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