

File No.4305/12

The complaint of the applicant relates to Deepnagar P.S. Case No.195/12. Applicant Dharmendra Kumar lodged written report with the SHO Deepnagar P.S. to the effect that his sister Sumitra Devi was being tortured for dowry. On about 2.9.2012 attempts to contact her on her cellphone failed. In the circumstances, the applicant suspected that she had been killed by her in-laws.

Sumitra Devi was married in 2009 and the occurrence took place in 2012 i.e. within three years of the marriage. Also there is specific allegation regarding dowry demand and acts of cruelty. Coupled with the fact that at the time of her alleged disappearance Sumitra Devi admittedly was in her in-laws' house, a prima facie case of dowry death under section 304B IPC is made out. In any view, the in-laws were/are required to give satisfactory explanation about her disappearance. The Commission is not able to appreciate as to why, in the circumstances, in stead of registering the case under section 304B IPC – as per the applicant's complaint, FIR for lesser offences viz. section 344 and 365/34 IPC was registered.

Sri Sarojendra Kumar, Dy.S.P. (Hqrs.) Nalanda who appeared on behalf of S.P. Nalanda, stated that as the dead body was not recovered, the case was not registered under section 304B. He pointed out that the case has been found to be true under section 364 IPC, besides sections 3/4 Dowry Prohibition Act and the FIR named accused have been arrested.

The Commission finds the explanation to the totally unsatisfactory. Recovery of dead body or corpus delicti is not necessary to establish the offence of dowry death or even murder. If the dead body is not recovered on that ground alone it cannot be said that offences under sections 302/304/304B is not made out. If the whereabouts of the persons is not found or the body is not recovered it may indeed cast reflection on the investigation made by the police. Additional offence under section 201 IPC may also be made out.

In the circumstances, the Commission is not satisfied with the result of the investigation. The Commission is of the view that the case requires further investigation.

Having observed thus, the Commission would fix this matter for hearing on 29.7.2013.

S.P. Nalanda should personally appear on the next date.

Let copy of this order be sent to S.P. Nalanda for needful.

Date: 08.07.2013

Justice S.N. Jha
Chairperson