

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.17472 of 2015

Arising Out of PS.Case No. -757 Year- 2013 Thana -KOTWALI District- PATNA

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1. Anjay Kumar @ Anjay Kumar Yadav Son of Late Jadu Yadav, Resident of Village - Rukunpur, Police Station - Guraru, District - Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Vijay Singh, Son of Late Chandrashekhar Singh, Village - Chourashi, Karai Parasurai, District - Nalanda. Presently residing at Rajesh Residence Apartment, P.S. - Budha Colony, PNT Colony, Patna.

3. Babita Devi, Wife of Vijay Singh, Son of Late Chandrashekhar Singh, Village - Chourashi, Karai Parasurai, District - Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ratnesh Kumar Singh

For the Opposite Party/s : Mr. S.N.Shukla (App)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 28-04-2015 1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 20.02.2015 passed by the learned Additional Sessions Judge, IV, Patna in Kotwali P.S. Case No. 757 of 2013, corresponding to Sessions Trial No. 307 of 2014 whereby the learned Additional Sessions Judge has rejected the application filed on behalf of the petitioner under Section 227 of the Code of Criminal Procedure for his charge.

2. The petitioner has been named in the First Information Report. The allegation against him is that he abducted the wife of the informant with intent to establish physical relationship with

her.

3. It has been contended that in course of investigation, the victim was recovered and her statement was recorded under Section 164 of the Code of Criminal Procedure in which she has categorically stated that she out of her own will entered into marriage with the petitioner.

4. It has further been contended that in view of the statement made by the victim under Section 164 of the Code of Criminal Procedure, none of the ingredients of any offence punishable under the Indian Penal Code would be attracted against the petitioner.

5. On the other hand, learned counsel for the State has contended that the statement made by the victim under Section 164 of the Code of Criminal Procedure would not absolve the petitioner from the charge under Section 498 of the Indian Penal Code as the petitioner knowing fully well that the victim is married to someone else has enticed her away for the purposes of making illicit intercourse.

6. In answer to the above argument made by the learned counsel for the State, learned counsel for the petitioner has contended that the Court below has not taken cognizance for the offence punishable under Section 498 of the Indian Penal Code.

7. Be that as it may, regard being had to the facts and circumstances of the case, I am of the view that there are materials on record to put the petitioner on trial. The trial Court has jurisdiction to add or alter the charge at any stage even before judgment under Section 216 of the Code of Criminal Procedure. It would depend upon the nature of evidence during trial and in case trial court would find that ingredients of some other offence are attracted in the present case, it would be open for it to add or amend the charge accordingly.

8. For the reasons stated hereinabove, the application being devoid of merit, is dismissed.

(Ashwani Kumar Singh, J)

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