

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40273 of 2015

Arising Out of PS.Case No. -1264 Year- 2014 Thana -SITAMARHI COMPLAINT CASE District-
SITAMARHI

- =====
1. Shiv Shankar Thakur
 2. Sima Kumari.
 3. Manoj Kumar.

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa

For the Opposite Party/s : Mr. Subhash Chandra Mishra (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 23-09-2015

The matter has been listed for being taken up out of turn since petitioner no.2, Sima Kumari being a public servant has to undergo training from 24.09.2015 as a polling officer for ensuing assembly election, a supplementary affidavit to that effect has been filed.

Petitioner no.1 has been arrested, hence application with regard to petitioner no.1 has become infructuous.

Accordingly, the application with regard to petitioner no.1 is disposed of.

The petitioner nos. 2 and 3 are apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 493 and 120B of the Indian Penal Code.



The prosecution case is that the complainant went to the village of petitioner no.1 and 2 on the occasion of marriage of elder brother of petitioner no.2, Sima Kumari when the marriage of the complainant with Manoj Kumar was assured subsequently Manoj Kumar established physical relationship with the complainant for ten days since 24.05.2011, thereafter the demand of dowry was made and ultimately the petitioners tortured and assaulted the complainant. It is further alleged that when the father of the complainant went to request for performing marriage then he was also assaulted by accused persons including the petitioners.

It is submitted by learned counsel for the petitioners that for the occurrence of 24.05.2011, initially Complaint Case No. C1-147 of 2011 was filed by the father of the present complainant on 29.08.2011 with only accusation under Sections 3/4 of the Dowry Prohibition Act. The present case got initiated through FIR lodged on 02.08.2013 after more than two years of the initial occurrence dated 24.05.2011 wherein the accusation under Section 493 IPC was levelled for the first time. On conclusion of investigation, the accusation was found false and final form was submitted which was accepted but subsequently the case proceeded on the protest petition, hence it appears that subsequently with developed prosecution version the present case

was lodged. There is nothing on record to suggest that pregnancy of the complainant was terminated or any physical relationship was established by petitioner no.3 with the complainant.

It is submitted by learned counsel for the complainant that due to prestige issue, the complainant did not disclose her sexual exploitation at the hands of petitioner no.3, to her parents hence this fact was not revealed in the initial complaint filed by the father of the complainant but does not dispute the fact that trial is going on in the earlier complaint lodged by the father of the complainant against the petitioners.

Considering the aforesaid facts, let the above named petitioner nos. 2 and 3 be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned SDJM, Sadar, Sitamarhi in connection with Complaint Case No. C1-1264 of 2014, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

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