

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 14884 of 2013

Arising Out of PS.Case No. -25 Year- 2010 Thana -MOTIHARI CITY District- EAST
CHAMPARAN (MOTIHARI)

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Md. Shamimuddin @ Rocky Son of Md. Moinuddin Resident of Village
Rajabari, P.S.-K. Hat, District Purnea.

.... Petitioner/s

Versus

1. The State of Bihar
2. Uma Devi W/o Mithlesh Ram, Village- Hanuman Nagar, P.S. Kawaiya
O.P. District- Lakhisarai.
3. Pooja Kumari @ Zeenat Parveen, W/o Md. Shamimuddin @ Rocky,
resident of Rayabari P.S. K. Hat, District- Purnea.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate
Mr. D. N. Tiwari, Advocate.

For the Opposite Party No. 2 : None.

For the Opposite Party No. 3 : Mr. Vijay Anand, Advocate.

For the State : Mr. Anish Chandra, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL ORDER

6 09-07-2015

Heard Mr. N.K. Agrawal, learned senior counsel
assisted by Mr. D. N. Tiwari, learned counsel for the petitioner,
learned A.P.P. for the State and Mr. Vijay Anand, learned
counsel for the opposite party no. 3 (alleged victim/wife of the
petitioner).

Earlier the Court had issued notice to the
informant and his daughter by order dated 20.02.2014.
Pursuant to the same different learned counsel had entered
appearance on behalf of the opposite party no. 2 and opposite
party no. 3. Their name also appears on the daily cause list.
However, today learned counsel for the opposite party no. 3
has appeared whereas nobody appears on behalf of opposite

party no. 2.

The present application under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') is directed against the order dated 12.06.2012 passed in Motihari Town P.S. Case No. 25 of 2010 by the C.J.M., Motihari taking cognizance against the petitioner under Sections 366A and 376 of the Indian Penal Code.

Learned counsel for the petitioner submits that the case is patently a false one as the informant (opposite party no. 2) who is the father of opposite party no. 3 was not agreeable to matrimonial relationship between the petitioner and opposite party no. 3 who out of love had entered into such relationship. It is submitted that now upon her marriage she has given birth to a child. Learned counsel has drawn the attention of the Court to the statement of opposite party no. 3 made before the Court under Section 164 of the Code where she has disclosed her age as 20 years and has stated that out of her free volition she had chosen to marry the petitioner and was living with him. The Court has also assessed her age as 20 years. Learned counsel has also drawn the attention of the Court to order dated 19.11.2010 passed in Cr. Misc. No. 41182 of 2010 by which a co-ordinate Bench of this Court has granted anticipatory bail to the petitioner in the present case in which most importantly the Court had recorded that the age of the alleged victim was assessed by the learned Magistrate to

be 20 years and that the aforesaid factual position was not disputed by learned A.P.P. or the learned counsel for the informant.

Learned counsel appearing for the opposite party no. 3 also supported the contention of the learned counsel for the petitioner that out of her free volition she has chosen to marry the petitioner and now living with him being the mother of a minor child.

In view of the aforesaid position, this Court feels that a case has been made out for allowing the application. Accordingly, for securing the ends of justice, the order taking cognizance dated 12.06.2012 by the learned C.J.M., Motihari in Motihari Town P.S. Case No. 25 of 2010 is quashed.

The application stands disposed off.

(Ahsanuddin Amanullah, J.)

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