

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44358 of 2015

Arising Out of PS.Case No. -356 Year- 2013 Thana -PIRBAHOR District- PATNA

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1. Shafaquat Jabin @ Shafquat Jabeen, D/o Late Anwarul Haque R/o Banauliya, P.S.- Biharsharif, District- Nalanda at present Mother Teresa Girls Hostel, Patna Law College, P.S.- Pirbahore, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shiw Kumar Prabhakar

For the Opposite Party/s : Mr. Amit Kumar Rakesh (App)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 22-09-2015 Heard learned counsel for the petitioner and learned A.P.P. for the State.

The present application under Section 482 of the Code of Criminal Procedure has been filed with a prayer to quash the order dated 27.08.2015 passed in Sessions Trial No. 681 of 2014 arising out of Pirbahore P.S. Case No. 356 of 2013, whereby the application filed by the petitioner under Section 216 of the Code of Criminal Procedure for amendment in charge has been rejected.

It is contended that the allegations made in the F.I.R. and the evidence laid before the Court clearly constitute an offence under Section 376 of the Indian Penal Code and not under

Sections 376 and 511 of the Indian Penal Code.

I have perused the F.I.R. and the impugned order passed by the court below. In the F.I.R. there is no allegation that the accused persons committed rape on the prosecutrix. The allegation is only of an attempt to commit rape. The matter was investigated by the police and in course of investigation, the witnesses examined under Section 161 of the Code of Criminal Procedure (for short "Cr.P.C.") did not support the allegation of rape. On completion of investigation chargesheet was submitted under Sections 376 and 511 of the Indian Penal Code. The learned Magistrate took cognizance of the offence and the case was committed to the court of Sessions for trial

Considering the materials available on record, the trial court framed charges under Sections 376, 511 and 420 of the Indian Penal Code. In course of the trial four witnesses including the informant have been examined and thereafter, the application was filed for amendment in charge. The trial court has considered the evidence on record and has found that there is no allegation of rape and hence, declined to accede to the prayer made by the petitioner and rejected the application filed under Section 216 Cr.P.C. vide impugned order dated 27.08.2015.

I do not find any illegality in the impugned order passed

by the learned Additional Sessions Judge VII, Patna.

Accordingly, the application, being devoid of any merit,
is dismissed.

(Ashwani Kumar Singh, J)

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