

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13031 of 2010

Arising Out of PS.Case No. -94 Year- 2003 Thana -null District- MUZAFFARPUR

- =====
1. Mithilesh Sahni
 2. Anil Sahni both sons of Ram Sagar Sahni, R/O Village-Manaria, P.S.-Kurdhni (Turki O.P.) Distt.-Muzaffarpur
 3. Parmanand Sahni son of Ram Ayodhiya Sahni, resident of village Basantpur, P.S. Paru, A/p Proprietor Apna Hotel, P.S. Sadar, District Muzaffarpur
 4. Kishun Singh son of late Shiv Dular Singh
 5. Sunita Devi w/o Kishun Singh, resident of village Basantpur, P.S. Paru, P.S. Sadar, District Muzaffarpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. Ram Pratap Singh S/o Shivilal Singh
3. Mostt. Basanti Devi w/o late Akshey Lal Singh, both resident of village Aghoria Bazar Satpura road, P.S. Kazi Mohammadpur, District Muzaffarpur

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Kailash Nath Diwakar, Advocate
For the Opposite Party/s : Mr. Arun Kr. Pandey, APP

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 19-02-2015

No one appears on behalf of the Opposite Party No.2.

The Petitioners seek quashing of the order dated 5.3.2010 passed by the Additional Sessions Judge, F.T.C. 4th, Muzaffarpur, by which he has refused to discharge the Petitioners in Sessions Trial No.501 of 2007 arising out of Kazi Mohammadpur P.S. case No.94 of 2003 in view of the statement of the victim recorded under Section 164 Cr.P.C.

The case of the Informant is that on the date of occurrence



Mostt. Basanti Devi was not found in her room and four briefcases and ornaments were missing. A substantive police case against unknown was instituted under Sections 363, 366 and 120B I.P.C. However, during investigation the names of the Petitioners transpired that they had kidnapped the victim for purposes of marriage. Thereafter the said Mostt. Basanti Devi was recovered and her statement was recorded under Section 164 Cr.P.C. She stated that she had been married to Achhelal Singh in 1993, who died in the year 1996. Her father after the death of her husband gave a certain piece of property for her upkeep, upon which her uncle-in-law Shivlal Ram built a house and used to pressurize her to part with the same. When she refused, she was tortured. Her uncle-in-law and brothers-in-law also coerced her into fulfilling their illegal demands. On the date of occurrence, she fled from the house and reached Delhi on the third day and went to the house of her brother-in-law Nagendra Singh. She had not taken anything from her house. She stated that Kishun Singh, Sunita Devi, Parmanand Sahani, Mithilesh Sahni and Anil Sahni did not kidnap her for purposes of marriage. She expressed her desire to go with her sister Shanti Devi and brother-in-law since she apprehended danger to her life. It is under these circumstances that the Petitioners have sought discharge.

Having considered the statement of the victim recorded

under Section 164 Cr.P.C., I would be of the view that in such a situation there being no material against the Petitioners, their trial would be a nullity and hence, the application is allowed and the proceeding so far as the Petitioners are concerned including the order dated 5.3.2010 passed by the Additional Sessions Judge, F.T.C. 4th, Muzaffarpur in Sessions Trial No.501 of 2007 arising out of Kazi Mohammadpur P.S. case No.94 of 2003 is hereby set aside.

(Anjana Prakash, J)

Narendra/-

U		T	
---	--	---	--