

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5142 of 2013

Arising Out of PS.Case No. -165 Year- 2010 Thana -HISUA District- -

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Jitu Raut, Son of Sri Beni Raut, Resident of Village Rajar, P.S. Sirdaha,
District Nawada.

.... Petitioner

Versus

1. The State of Bihar.
2. Manita Devi, Wife of Mahendra Raut, Resident of Village Ledha, P.S.
Akbarpur, District Nawada.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Md.Arif (App)

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CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

7 04-05-2015

Heard both sides.

This petition has to be allowed after considering the statements of the prosecutrix under Section 164 Cr.P.C. and her statement recorded by the police in paragraph-15 of the case diary. In the whole of the statement recorded in paragraph-15, she does not appear stating to the police that petitioner Jitu Raut was anywhere near her or with co-accused Rajendra Raut in order to committing gang rape. The reading of the statement clearly points out that the petitioner had allegedly threatened the lady with dire consequences if she had decided to report the matter to the police. This becomes vividly clear when one considers the last few lines of paragraph-15 and, as such, it was rightly submitted that the petitioner could never have been charged under Section 376 read

with 34 of the Indian Penal Code.

The petition succeeds and the same is allowed. The charge as against petitioner Jitu Raut is hereby quashed. If the trial is proceeding then it shall proceed only against Rajendra Raut.

(Dharnidhar Jha, J.)

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