

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39913 of 2012

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Roshan Kumar Singh @ Ramesh Kumar

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Renuka Sharma

For the Opposite Party/s : Mr. Satyendra Pd.(App)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

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20-03-2015

Heard learned counsel for the petitioner and the State.

In this case, petitioner is seeking quashing of order
19th April 2011 passed in Com. Case No. 543© of 2011 u/s 366
IPC. The case has been committed to the court of Sessions and has
been numbered as S.T. No.147 of 2011.

The complaint was filed by the prosecutrix O.P.No.2
Anjana Kumari making allegation that on 13th December 2009
she had to visit her mother to Maner and for this purpose she
reached at the road side at Krishna Apartment for catching auto
rickshaw or other conveyance at about 9:30 A.M. Suddenly the
accused persons reached there along with Sumo Victa bearing
Regd.No. BR-1 AP-9292 and said to the complainant that he was
going to Maner and she may take lift and on insistence she took
lift. It is alleged that when the vehicle reached the Botanical
Garden, accused no.1 proposed the complainant to marry but she
showed reluctance. At this on the point of gun she was taken to

Bihta and forcefully married with accused no.1. As she was frightened, she did not make alarm.

In the mean time, a call was made by the complainant's father on her mobile which she received and she informed that she will be reaching shortly. Allegation has been made that forcibly accused no.1 snatched her mobile and later on it was switched off. The complaint was made of forceful marriage with petitioner and she was confined for few hours and was not allowed to contact any person. Upon return as the complainant felt terrified did not disclose forced marriage but later she narrated the whole story to her parents.

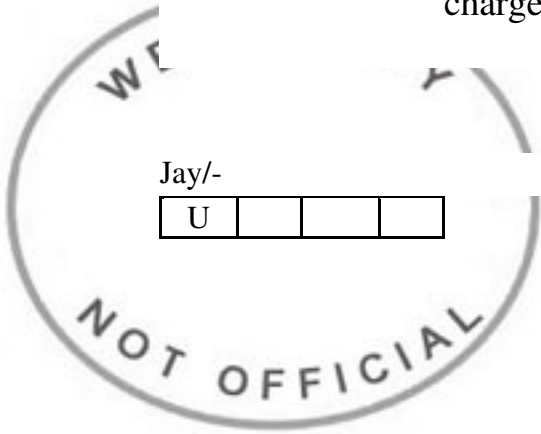
The court on the basis of solemn affirmation and statement made in the complaint petition, took cognizance, as aforesaid.

Counsel for the petitioner submits that the case was filed two years after filing of restitution petition of conjugal right by the petitioner without explaining the delay.

At the time of cognizance the Magistrate has to see the prima facie case on the basis of the materials available on the record. This Court cannot substitute itself in the place of Magistrate. It is the Magistrate who has to satisfy himself of prima facie case.

This Court does not find any error in the order of

cognizance. This petition is dismissed. However, liberty is given to the petitioner to raise all the points at the time of framing of charge.



(Shivaji Pandey, J)