

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13083 of 2015

Arising Out of PS.Case No. -3 Year- 2012 Thana -MAHILA P.S. District- PATNA

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Rahul Lamba @ Rahul Lama Son of Shankar Singh Lamba resident of village/Mohalla- Rajbanshi Nagar, Quarter No. -95/400, P.S. Shastri Nagar, District- Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Chandra

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

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

03/ 11-05-2015

Heard learned counsels for the petitioner and

the State.

The petitioner is languishing in custody since 28.07.2012 in a case registered for the offences punishable under Sections 376(2)(g), 120B, 292, 293, 294, 323, 504, 506/34 of the Indian Penal Code and 67, 67A, 67B and 68 of Information Technology Act.

The first information report is the statement of the victim girl before Bihar State Mahila Ayog dated 18.07.2012 to the effect that while the informant-victim was going to attend coaching on 14.06.2012 she was called by co-accused Prashant with whom the informant appears to have affairs since long. On the call of Prashant the informant went to a Flat in



Rajbanshinagar, which belongs to co-accused Rishabh Singh. When the informant reached to the said flat co-accused Rishabh, Rahal and Arman were present. Rishabh assaulted the informant when the informant tried to escape from there, then all the three accused persons prepared Video. The whole incident was orchestrated by Prashant as Prashant wanted to marry with the informant. Co-accused Arman subsequently called the informant near Central School and showed her Video, but when it was demanded by the informant it was not supplied to her. The offence was committed since Prashant developed an impression that the informant subsequently developed affairs with Arman. The informant claimed that after coming out from the flat she went to Shashtrinagar Police Station but she did not lodge any FIR. On the basis of aforesaid statement the FIR was lodged against Prashant Jha Son of Sidharth Jha, Rishabh Singh, Rahul Kumar and Arman without parentage.

It is submitted by learned counsel for the petitioner that the petitioner is not named in the FIR. Moreover, for the occurrence of 14.06.2012 on the basis of statement recorded by Bihar State Mahila Ayog on 18.07.2012 the FIR was registered on 24.07.2012, but subsequently in order to save some high profile accused and to introduce the petitioner as an accused



164 Cr.P.C. statement of the victim girl was recorded on 26.07.2012 wherein the victim changed her version by stating that Prashant called her on 14.06.2012 near Rajbanshinagar temple, from there he took her to a flat on 4th floor of an apartment where a person appearing like domestic held was available. On reaching there Prashant received phone call of Rahul and after five minutes Rahul Kumar, Rahul Lamba (petitioner), Rishabh Singh and Saurabh came, thereafter this petitioner assaulted the victim, got her MMS prepared, Prashant first established forceful physical relationship, thereafter Rahul and this petitioner. MMS was prepared with undertaking that it will be deleted but it was not deleted. The said MMS was transmitted to co-accused Arman, who subsequently called the victim offered her to give the C.D. with a pre-condition to have sex.

In 164 Cr.P.C. statement contained in Annexure-2 for the first time the victim named this petitioner. The victim identified this petitioner during T.I. Parade conducted on 04.08.2012 where she suggested the alias name of the petitioner as Rahul Lamba alias Nepali alias Rishabh as gets reflected from T.I. Chart contained in Annexure-3.

The statement under 164 Cr.P.C. suggests that petitioner was known to the victim but in her evidence during

trial she stated that for the first time she came to know the name of the petitioner when police conveyed her and she saw the petitioner on television screen after his arrest.

Apart from the above inconsistency in the statement and evidence of the victim, she and her mother failed to locate the flat at Rajbanshinagar when police twice on 25.07.2012 and 28.07.2012 tried to locate the same with victim and her mother which as per the own version in the FIR the victim was acquainted with the flat from before. The victim was medically examined on 26.07.2012. The medical report does not corroborate the accusation of gang rape. The C.D. or the MMS was not supplied with the documents to the petitioner at the stage of Section 207 of the Cr.P.C. nor the same has been exhibited till date and above all proceeding of trial has been stayed in view of the interim order passed by the Apex Court on 10.11.2014 in Special Leave to Appeal (Crl.) No. 8372 of 2014. The same has been brought on record as Annexure-6 to the supplementary affidavit.

Considering the delayed lodging of the FIR, inconsistency in the statement of the victim who initially did not name this petitioner, the medical report not corroborating the accusation and at present trial being stayed, hence, there is no

likelihood of its conclusion in near future, moreover, a statement has been made in para 3 of the petition that the petitioner has no criminal antecedent, let the above named petitioner, be released on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Ad hoc Additional District & Sessions Judge-IV, Patna in connection with Sessions Trial No. 1231 of 2012 arising out of Mahila P.S. Case No. 03 of 2012.

The petitioner will not leave the territorial jurisdiction of Patna District without permission of the learned trial court.

The learned court below will be at liberty to cancel the bail bonds of the petitioner, if he defaults for two consecutive occasions.

(Dinesh Kumar Singh, J)

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