

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9782 of 2015

Arising Out of PS.Case No. -163 Year- 2013 Thana -MAJHAULIA District-
WESTCHAMPARAN(BETTIAH)

- =====
1. Saheb Yadav @ Sahab Yadav @ Digvijay Prasad Yadav
2. Guddu Yadav @ Ravikar Prasad Yadav

Both above are sons of Suresn Yadav, residents of village - Jaukatia,
Chhota Malahi Tola, Police Station - Majhauria, Dist. West Champaran at
Betia.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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With

Criminal Miscellaneous No.16756 of 2015

Arising Out of PS.Case No. -163 Year- 2013 Thana -MAJHAULIA District-
WESTCHAMPARAN(BETTIAH)

- =====
1. Bhim Yadav son of Late Lalbabu Yadav R/o- village- Jhanktiya, P.s
Mahauria, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :
(In Cr.Misc. No.9782 of 2015)
For the Petitioner/s : Mr. Uma Shankar Sharma, Advocate
For the Opposite Party/s : Mr. Anil Kumar(App)
(In Cr.Misc. No.16756 of 2015)
For the Petitioner/s : Mr. Rajesh Kumar Sinha, Advocate
For the Opposite Party/s : Mr. Nand Kumar(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 18-05-2015 Heard learned counsel for the petitioners and the
State.



Petitioners are languishing in custody since 24.04.2013 and 05.05.2013 in a case registered for the offences punishable under Sections 342, 376(G) of the Indian Penal Code. However, Section 376(G), later by order dated 29.04.2013 was corrected as 376(D) of the Indian Penal Code.

It is alleged that the First Information Report named persons including the petitioners took the informant and her mother to the house of Suresh Yadav and committed rape on both of them one by one.

It is submitted by the learned counsel for the petitioners that co-accused Saheb Yadav @ Sahab Yadav @ Digvijay Prasad Yadav, the father of co-accused Suresh yadav, on whose house the offence is alleged to have been committed had lodged Majhaulia P.S. Case No. 166 of 2013, levelling accusation under Section 366A/34 of the Indian Penal Code, wherein it is alleged that the informant's brother and her family members kidnapped the sister of Saheb Yadav @ Sahab Yadav @ Digvijay Prasad Yadav. The said First Information Report was registered on 23.04.2013. Hence as a retaliatory measure the present case has been lodged on 20.04.2013 for the occurrence of 18.04.2013. The informant and her mother were medically examined after two days of the occurrence on 20.04.2013, but there is no explanation on behalf of the prosecution for the same. The medical reports do not

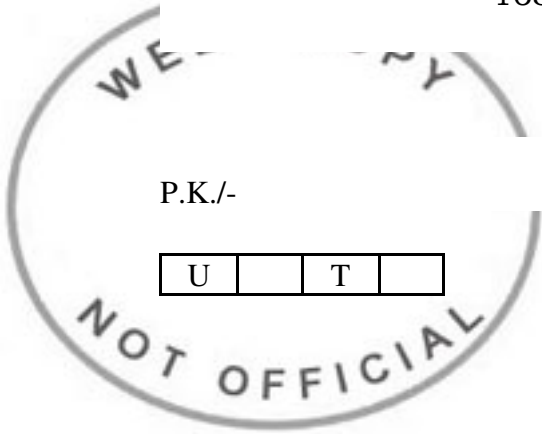


suggest any injury on the private part of the victims, moreover medical reports completely negates the accusation of gang rape. Subsequently the mother of the informant was examined under Section 164 Cr.P.C., wherein she stated that she was ravished by Subhash Yadav, whereas her daughter was ravished by Ajay Yadav, Saheb Yadav @ Sahab Yadav @ Digvijay Prasad Yadav, Bhim Yadav and Guddu Yadav @ Ravikar Prasad Yadav. Though the informant's statement under Section 164 Cr.P.C. has not been recorded. Statement has been made in para-3 of the petition that petitioners have no criminal antecedent. Co-accused Lal Babu Yadav has been granted bail vide Cr. Misc. No. 31947 of 2013.

While considering the bail application of the co-accused, report from the learned trial court was called for, which suggests that only charges have been framed but no witness has been examined, hence there is no likelihood of conclusion of trial in near future.

Considering the above mentioned inconsistencies with regard to the accusation levelled by the informant and the statement under Section 164 Cr.P.C. of the mother of informant and there is no likelihood of conclusion of trial in near future, let the above named petitioners, be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned 3rd

Additional District & Sessions Judge, Bettiah, West
Champan in connection with Majhaulia P.S. Case No.
163 of 2013.



(Dinesh Kumar Singh, J)