

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1281 of 2015

Arising Out of PS.Case No. -268 Year- 2009 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN (MOTIHARI)

Ejaj Ahmad, son of Late Sheikh Abdul Hakim, resident of Village - Duho Suho,
P.S. - Chauradano, District - East Champaran. Petitioner.

Versus

1. The State of Bihar.

2. Ozaira Khatoon @ Khairun Nisha, wife of Israfil Mia Hakim, resident of
Village - Duho Suho, P.S. - Chauradano, District - East Champaran.

.... Opposite Parties.

Appearance :

For the Petitioner : Md. Anis Akhtar, Advocate

For the State : Mrs. Sangeeta Sharma, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 01-09-2015

Heard learned counsel for the petitioner and learned
counsel for the State.

The instant application under Section 482 of the Code
of Criminal Procedure has been filed for quashing of the order
dated 17.11.2014 passed by the learned 7th Additional Session
Judge, Motihari, East Champaran in Sessions Trial No. 856 of
2013 arising out of Complaint Case No. 268/2009 registered
under Section 376 read with 34 of the Indian Penal Code whereby
the petition dated 14.02.2014 filed by the petitioner under Section

227 of the Code of Criminal Procedure for discharge has been rejected.

According to the prosecution case, the complainant has alleged that the petitioner had forcibly ravished her.

In course of inquiry, the complainant and witnesses have supported the allegation. Accordingly, the cognizance of offence has been taken. Even during examination of witnesses under Section 244 of the Code of Criminal Procedure, the complainant and witnesses on her behalf have supported the allegation made in the complaint.

Regard being had to the fact that there was sufficient material to proceed against the petitioner, the trial court dismissed the application filed under Section 227 of the Code of Criminal Procedure seeking discharge vide order dated 17.11.2014.

Learned counsel for the petitioner has submitted that the allegations made in the complaint are patently false and the petitioner is being prosecuted due to previous enmity. He further submits that the victim was a lady of loose character and she is in habit of making false allegation against innocent people in order to extract money.

Be that as it may, at the stage of framing of charge, the plausible defence of the accused cannot be considered for the

purpose of discharge. The probative value of defence of an accused can only be tested during trial.

In that view of the matter, I find no illegality in the impugned order passed by the court below. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

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