

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 915 of 2014

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1. Eqbal Ansari, S/O Late Md Hasim Ansari
 2. Zarina Khatoon, W/O Eqbal Ansari
 3. Zafar Hasmi @ Foolbabu
 4. Danish Eqbal, both sons of Eqbal Ansari, R/O Vill. Alafganj, Shivdhara, P.S. – L.N.M.U, District – Darbhanga
 5. Md. Amaduddin, S/O Late Md Qasim Ansari, R/O Vill. – Qajipura, P.S. – Laheriasarai, District - Darbhanga

.... Petitioners

Versus

1. The State of Bihar Through D.G.P., Bihar, Patna
2. D.I.G., Darbhanga
3. S.S.P. Darbhanga
4. S.P. Darbhanga
5. S.H.O. Darbhanga Sadar
6. Md. Mujahid Ansari, S/O Late Jamshed Ansari, R/O Village – Sara Mohanpur, P.S. – Sadar, Dist. – Darbhanga,

.... Respondent 1st Set

.... Respondent 2nd Set

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Appearance :

For the Petitioners :

For the Respondents :

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

4 30-04-2015

Heard.

This petition has been filed for quashing the First Information Report of Darbhanga P.S. Case No. 18 of 2014 for the offences committed under Sections 365 and 366 of the Indian Penal Code registered on 14.01.2014 as well as for a direction in the nature of mandamus commanding the respondent-authorities not to issue warrant or process of Sections 82 and 83 of the Code of Criminal Procedure against the petitioner.

The prosecution case as alleged in the First Information Report is that the informant had married his eldest



daughter with Tabrej Ansari on 25.04.2009. Eqbal Ansari, the father of Tabrej Ansari used to pressurize the informant to marry his second daughter Safa Praveen with his second son Danish Eubal. On 26.12.2013 Safa Praveen did not return from her college and on inquiry the informant learnt that Tabrej Ansari, his father, mother, brother has forcibly kidnapped/abducted Safa Praveen on a white Bolero witnessed by Munni Khatoon.

Since the allegations made in the First Information Report make out a cognizable offence. The police have indefeasible right to investigate a cognizable offence. The Court at this stage when the police are in midst of investigation cannot interfere with the investigation. The prayer of the petitioner is for a direction to restrain the police to arrest the accused.

From the plain reading of the First Information Report, it is apparent that a cognizable offence has been made out and on the written report filed by the informant, the father of the victim, the First Information Report has been lodged.

Learned counsel for the petitioner, however, submits that the First Information Report be quashed as the petitioner no. 1 is father-in-law, petitioner no. 2 is mother-in-law, petitioner nos. 3 and 4 are Dewar and petitioner no. 5 is Nandosi of the informant's eldest daughter who was married with Tabrej Ansari the son of

petitioner no. 1 and son-in-law of the informant.

The First Information Report discloses that cognizable offence is made out and if cognizable offence has been disclosed the police has inheritable right to investigate the case. It is well settled that for quashing the First Information Report what is required to be established is that whether the allegations made makes out an offence or whether the allegations are of male fide intention. The investigation is totally under the domain of the police and the Court is not required to interfere with the police investigation or to interfere with the investigation.

Learned counsel for the petitioners, however, contended that a direction be issued that the petitioners be not arrested and has relied upon the order dated 02.08.2013 passed in Cr.W.J.C. No. 691 of 2013 contained in Annexure-3 to the Interlocutory Application that warrant of arrest under Section 82 and 83 of the Cr.P.C. may not be issued and no coercive steps be taken against the petitioners. The facts of the case in Cr.W.J.C. No. 691 of 2013 was that the victim, who was alleged to have been kidnapped, asserting that she has married with the accused has already filed Cr.W.J.C. No. 526 of 2013 pending disposal in which notice has already been issued.

However, such fact is missing here. There is no

averment that the victim has married with any person nor there is any writ pending and it is not proper at this stage to pass a blanket order that no steps be taken under Section 82 and 83 of the Cr.P.C.

Hence, having regard to the fact that no new point has been made out for quashing the First Information Report when there is specific allegation of kidnapping of the victim and a cognizable offence has laid down and the police has inherited right to investigate the cognizable offence, I do not find any merit in the petition and the same is disposed of with liberty to raise the issue at the appropriate stage.

(Gopal Prasad, J.)

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