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IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7846 of 2016

Arising Out of PS.Case No. -43 Year- 2015 Thana -RAMNAGAR District- WESTCHAMPARAN(BETTIAH)

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Gudi Khan @ Guddi Khan, son of Mukul Khan, Resident of Village- Mathiya, Police Station- Ramnagar, District- West Champaran (Bettiah)

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :
For the Petitioner/s : Mr. Lokesh Kumar Singh, Advocate
For the Opposite Party/s : Mr. Shailendra Kumar Singh(App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL ORDER

2 19-02-2016 Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

The statement of victim has been recorded under Section 164 of the Cr.P.C. in which she stated that son of Mukul Khan had also participated in the alleged crime and petitioner happens to be son of Mukul Khan.

Learned counsel for the petitioner submits that the allegation of committing sexual assault is against son of Jabbar and it is only stated that petitioner was present at the place of occurrence but I am not at all convinced with the aforesaid submission because to constitute the offence of gang rape it is not essential that the accused must commit sexual assault rather the

presence of accused is sufficient to constitute an offence of gang rape.

Accordingly, the prayer of the petitioner in connection with Ramnagar P.S. Case No.43 of 2015 pending in the court of Ist Additional Sessions Judge-cum-Special Judge POCSO, Bagaha, West Champaran, Bettiah stands rejected.

(Hemant Kumar Srivastava, J)

N.H./-

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