

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13341 of 2015

Arising Out of PS.Case No. -228 Year- 2013 Thana -MOTIHARI TOWN District- EAST
CHAMPARAN (MOTIHARI)

Sachidanand Kumar @ Sachidanand Prasad son of Ram Kishore Prasad, Resident
of village- Shadal Pur, P.S.- Muffasil Munger, District- Munger.

.... Petitioner

Versus

1. The State of Bihar
 2. Sahera Khatoon, D/o Md. Mir Ali, R/o village-Hardia, P.S.-Turkaulia, Distt.-
East Champaran
- Opposite Parties

Appearance :

For the Petitioner/s : Mr. Aditya Prakash Sahay, Advocate
Mr. Jainandra Kumar, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 25-10-2016

By way of the present application filed under Section 482 of the Code of Criminal Procedure (for short 'the CrPC'), the petitioner has sought for quashing of the order dated 09.02.2015 passed by the learned 3rd Additional Sessions Judge, East Champaran, Motihari in Session Trial No. 1021 of 2013 whereby the learned Judge has dismissed the application filed by the petitioner under Section 227 of the CrPC.

The petitioner has been made a named accused in Town P.S. Case No. 228 of 2013 registered under Section 376 of the Indian Penal Code.

According to the FIR, the petitioner is alleged to have bodily lifted the prosecutrix and took her to a lonely place and

confined her in a room where he established physical relationship with her for twenty days on the pretext of marriage and, thereafter, handed over the prosecutrix to two of his friends at Patna.

It has been submitted by the learned counsel for the petitioner that the allegations made in the FIR do not constitute the offence punishable under Section 376 of the Indian Penal Code. At best, it is a case wherein the prosecutrix established physical relationship with the petitioner out of her own consent. It has further been contended that the prosecutrix has also filed a compromise petition before the court and, in that view of the matter, the learned trial Judge ought to have discharged him from being prosecuted under Section 376 of the Indian Penal Code.

Per contra, learned counsel for the State has submitted that there is specific allegation against the petitioner that he forcibly committed rape upon the prosecutrix and, thereafter, promised to marry her. He has submitted that such an allegation would definitely attract the ingredients of the offence punishable under Section 376 of the Indian Penal Code. Referring to the statements of the witnesses recorded in the case diary, he has submitted that several witnesses have come forward to state that the petitioner had forcibly lifted the victim and committed rape upon her.

I have heard learned counsel for the parties and perused the record.

I find substance in the argument advanced by the learned counsel for the State. The offence punishable under Section 376 of the Indian Penal Code is not compoundable in nature. The nature of allegation made against the petitioner is quite serious. The witnesses including the prosecutrix have supported the prosecution case. The prosecutrix has also been examined under Section 164 of the CrPC in which, she has categorically stated that without her consent the petitioner had ravished her.

Regard being had to there being overwhelming evidence against the petitioner, in the considered opinion of this Court, the trial court has rightly rejected the application of the petitioner.

Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	-----
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