

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34207 of 2016

Arising Out of PS.Case No. -6 Year- 2016 Thana -MAHILA PS District- GOPALGANJ

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Ram Bachan Yadav, Son of Gopal Yadav, Resident of Village- Pakho Pali,
P.S. Uchkagaon, District- Gopalganj.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Dhramveer, Advocate
For the State : Mr. Uday Pratap Singh, A.P.P.
For the Informant : Mr. Naresh Prasad, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

3 14-09-2016 Heard learned counsel for the petitioner, the State and the
informant.

The petitioner apprehends his arrest in a case registered
for the offences punishable under Sections 493, 376, 120 (B), 504
of the Indian Penal Code.

As per allegation, the informant had given consent for
sexual intercourse on the promise given by the petitioner that he
would marry her but, thereafter, he did not marry, therefore, the
present case has been lodged.

It is contended on behalf of the petitioner that if consent
for sexual intercourse is there even on promise having been made
for marriage would not amount to rape. Learned counsel places
reliance upon a decision of the Apex Court in *Uday Vs. State of*

Karnataka [(2003) 4 SCC 46] wherein observation has been made that where the prosecutrix had sufficient intelligence to understand the significance and moral quality of the act and as she was consenting openly that would not amount to rape and, thus, Section 376 would not be attracted as false promise is not a fact within the meaning of Penal Code. It is contended that in the present case, the petitioner and the informant both were major and everything was done with the consent of each other.

Learned counsel appearing for the informant has submitted that the statement of the informant under Section 164 Cr.P.C. has been recorded in which she has stated that she had love affairs with the petitioner. The petitioner had physical relation with her, due to which, she became pregnant and she was forcibly given some medicine, due to which, abortion took place and, thereafter, the petitioner did not marry her as per his earlier promise.

Per contra, learned counsel for the petitioner submits that this is a fresh version which has been given under Section 164 Cr.P.C. as the same was not stated by the informant in the FIR, however, even 164 Cr.P.C. statement also goes to show that she was in deeply love with the petitioner and everything was done with the consent of each other.

Having regard to the facts and circumstances of the case, let the petitioner, namely, Ram Bachan Yadav be released on bail in the event of his arrest/surrender before the court below within a period of six weeks from today in connection with Gopalganj (Mahila) P.S. Case No.06/2016, on furnishing bail bond of Rs.10,000 (Ten Thousand Rupees) with two sureties of the like amount each to the satisfaction of Sub-Divisional Judicial Magistrate, Gopalganj subject to the conditions as laid down under sub-section(2) of Section 438 of the Code of Criminal Procedure.

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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