

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.25789 of 2016**

Arising Out of PS.Case No. -75 Year- 2016 Thana -JOKIHAT District- ARRARIA

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Md. Mokim @ Md. Makim S/o Nizam @ Nazam, Resident of village -  
Basgara, P.S. Bairgachhi, O.P. (Araria), District - Araria

.... .... Petitioner/s

Versus

The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Anil Prasad Singh, Advocate

For the Opposite Party/s : Mr. Satyadev Prasad Singh Yadav, APP

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**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH**  
**ORAL ORDER**

4      24-08-2016                      Heard learned counsel for the petitioner, learned  
counsel for the State and learned counsel for the informant.

The petitioner is languishing in custody since  
25.03.2016 in connection with Jokihat P.S. Case No. 75/ 2016 for  
the offences instituted under Sections 366A read with 34 of the  
Indian Penal Code.

The prosecution story, in brief, is that on the alleged  
date and time of occurrence the daughter of the informant,  
namely, Tarannum, went to school and while she was returning to  
her home the accused persons including the petitioner forcibly  
kidnapped her.

It has been submitted on behalf of the petitioner that  
the petitioner is in custody since 25.03.2016 and charge sheet has



been submitted in the present case. There is no allegation of tampering of witnesses against the petitioner. Today the victim is physically present in this Court and she states that she had left her house on her own will and performed marriage on 17.02.2016 with Tabarak (co-accused). She claims to be major on the date of alleged incidents, as also, the date of marriage. The victim, in support of her contention, produced her AADHAAR Card, in which her date of birth is 15.06.1996. Thus she submits herself to be more than 20 years of age and there is no such omission or commission on her part, as also, her husband and his family members, including this petitioner, which may fasten any criminal liability upon them.

The counsel for the petitioner further submits that the petitioner is elder brother of the husband of the victim and has relied upon a judgment of the Supreme Court rendered in the case of Lata Singh –vs- The State of U.P. & Another, reported in AIR 2006 SC 2522, where his Lordships held as under :

“14. This case reveals a shocking state of affairs. There is no dispute that the petitioner is a major and was at all relevant times a major. Hence she is free to marry anyone she likes or live with anyone she likes. There is no bar to an inter-caste marriage under the Hindu Marriage Act or any other law. Hence, we cannot see what offence was

committed by the petitioner, her husband or her husband's relatives.

15. We are of the opinion that no offence was committed by any of the accused and the whole criminal case in question is an abuse of the process of the Court as well as of the administrative machinery at the instance of the petitioner's brothers who were only furious because the petitioner married outside her caste. We are distressed to note that instead of taking action against the petitioner's brothers for their unlawful and high-handed acts (details of which have been set out above) the police has instead proceeded against the petitioner's husband and his relatives.

16. Since several such instances are coming to our knowledge of harassment, threats and violence against young men and women who marry outside their caste, we feel it necessary to make some general comments on the matter. The nation is passing through a crucial transitional period in our history, and this Court cannot remain silent in matters of great public concern, such as the present one.

17. The caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation unitedly. Hence, inter-caste marriages are in fact in the national interest as they will result in



destroying the caste system. However, disturbing news are coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and democratic country, and once a person becomes a major he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum they can do is that they can cut off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage. We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter-religious marriage with a woman or man who is a major, the couple are not harassed by anyone nor subjected to threats or acts of violence, and any one who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by

law.

18. We sometimes hear of 'honour' killings of such persons who undergo inter-caste or inter-religious marriage of their own free will. There is nothing honourable in such killings, and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal minded persons who deserve harsh punishment. Only in this way can we stamp out such acts of barbarism.

19. In the circumstances, the writ petition is allowed. The proceedings in Sessions Trial No.1201/2001 titled State of U.P. vs. Sangita Gupta & Ors. arising out of FIR No. 336/2000 registered at Police Station Sarojini Nagar, Lucknow are quashed. The warrants against the accused are also quashed. The police at all the concerned places should ensure that neither the petitioner nor her husband nor any relatives of the petitioner's husband are harassed or threatened nor any acts of violence are committed against them. If anybody is found doing so, he should be proceeded against sternly in accordance with law, by the authorities concerned."

On behalf of the State and the learned counsel for the informant, it is submitted that the petitioner is named in the F.I.R. and specific allegation has been made against him.

Whereas, neither the counsel for the State nor the

counsel for the informant have challenged the identity of the victim or the genuineness of the AADHAAR Card (Annexure-3), which bears the photograph of the victim and mentions her date of birth.

Considering the aforesaid facts and circumstances and the statement of the victim made in the Court, it is directed that the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/-(Rupees Ten thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Araria in connection with Jokihat P.S. case No.75/2016.

**(Sudhir Singh, J)**

Narendra/-

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