

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1115 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- SUPAUL

Baij Nath Sah @ Baijaynath Kumar son of Rajendra Prasad Sah, resident of village- Sujanpur, P.S. - Kishanpur, District - Supaul.

.... Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar, Patna
2. The Director General of Police, Bihar, Patna.
3. The Superintendent of Police, Supaul.
4. The Officer-in-charge, Police Station Supaul, District - Supaul.
5. Ram Kumari Devi wife of Mahadev Sah, resident of village - Chakla Nirmali, Ward No. 6, P.S. - Supaul, District - Supaul.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Nafisuzzoha, Advocate

For the Respondent/s : Ms. N. Nirvikar, G.A.10

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 01-03-2016

By way of the present application preferred under Articles 226 and 227 of the Constitution of India, the petitioner seeks quashing of the first information report (for short "FIR") of Supaul P.S. Case No.425 of 2012 dated 10.8.2012 registered under sections 366A read with 34 of the Indian Penal Code.

2. The petitioner is one of the accused named in the FIR. On completion of investigation, the police have already submitted their report under section 173(2) of the Code of Criminal Procedure against co-accused Manoj Sah and since the petitioner is evading arrest, the investigation has been kept open as against him.

3. It has been contended by the learned counsel for the petitioner that the victim of the case has turned hostile during trial of co-accused Manoj Sah and, hence, no useful purpose would be served by putting the petitioner on trial. On this ground alone, the petitioner seeks quashing of the FIR.

4. In my view, the contention of the petitioner is thoroughly misconceived. The deposition of a witness recorded in a trial of a co-accused will have no bearing on the trial of the petitioner. Admittedly, the fact of the matter is that the petitioner is evading appearance before the court for the last more than three years. The allegation made in the FIR clearly attracts the ingredients of the offence punishable under section 366A of the Indian Penal Code. In that view of the matter, the FIR cannot be quashed.

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

(Ashwani Kumar Singh, J)

Md.S./-

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