

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 23505 of 2013

Arising Out of PS.Case No. -132 Year- 2009 Thana -SOHSARAI District- NALANDA
(BIHARSHARIFF)

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Abhishekh Kumar @ Abhishek Raj Son of Anjani Prasad @ Anjani Kumar
Resident of Village- Dayachak, Police Station- Barh, District- Patna
(Tenant in the house of Umesh Yadav) under the Guardianship of his father
namely Anjani Kumar.

.... Petitioner

Versus

1. The State of Bihar
2. Anjali Kumari, D/O Satya Narayan Prasad, Resident of Village- Sohsarai,
District- Nalanda.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mrs. Kumari Sujata Sinha, Adv.

For the Opposite Party/s : Mr. Mayanand Jha (App)

Mr. Rajesh Mohan

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4. 23-11-2016 Heard Smt. Kumari Sujata Sinha, learned counsel for
the petitioner, Sri Mayanand Jha, learned Addl. Public Prosecutor
as well as learned counsel, who has appeared on behalf of
informant/opposite party no. 2.

The petitioner, who is accused in Sohsarai P.S. Case
No. 132 of 2009 registered for offence under Sections 376, 34 &
120(B) of the Indian Penal Code, has approached this Court
invoking its inherent jurisdiction under Section 482 of the Code of
Criminal Procedure, 1973, with a prayer to quash an order dated
20-04-2013 passed in J.J.B. No. 78 of 2009, G.R. No. 2677 of
2009 (arising out of Sohsarai P.S. Case No. 132 of 2009) by the

Juvenile Justice Board, Biharsharif, Nalanda (hereinafter referred to as 'J.J.Board'). By the said order, the learned J.J.Board has allowed the petition filed on behalf of informant regarding conducting the D.N.A. test of the petitioner.

In this case, there is allegation that the petitioner had committed offence under Section 376 of the Indian Penal Code against the informant. It is also not in dispute that petitioner is the younger brother of the husband of the sister of the informant. It was alleged that due to such relation, she conceived and delivered a baby. For establishing the allegation of committing rape, it was necessary to get D.N.A. report and as such, a petition was filed by the prosecution for conducting D.N.A. test. The same prayer has been allowed, which has been assailed before this Court.

Learned counsel for the petitioner tried to persuade the Court that the case before the J.J.Board was not in relation to establishing the parentage and as such, there was no reason to entertain such petition. However, learned Addl. Public Prosecutor as well as learned counsel for the informant/opposite party no. 2, supporting the impugned order, submit that for extracting truth, it is necessary to get the D.N.A. test conducted, as prayed by the prosecution and allowed by the J.J.Board.

After hearing learned counsel for the parties and

considering the facts disclosed in the petition as well as impugned order, the Court is of the opinion that there is no apparent error in the impugned order warranting interference.

Accordingly, the petition stands dismissed.

In view of dismissal of this petition, the interim order of stay dated 07-07-2014 stands vacated.

(Rakesh Kumar, J.)

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