

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.511 of 2015

Arising Out of PS.Case No. -42 Year- 2015 Thana –Nagar nausa District- NALANDA
(BIHARSHARIFF)

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Arun Kumar son of Sri Shyam Sundar Prasad, resident of village- Nagarnousha,
Police Station- Nagarnausha, District- Nalanda.

.... Petitioner

Versus

1. The State of Bihar
2. The Home Secretary, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. District Magistrate, Nalanda.
5. Superintendent of Police, Nalanda.
6. Deputy Superintendent of Police, Hilsa
7. Inspector, Police Station, Nagarnausha (Nalanda)

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Umesh Prasad, Advocate

For the Respondent/s : Mr. R. R. K. Pandey, SC-29

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 03-05-2016

The petitioner has filed the instant writ petition for
issuance of a direction to the respondent to recover his kidnapped
daughter, namely, Surbhi Kumari and further to complete the
investigation of Nagar Nausa P. S. Case No. 42 of 2015 and arrest
the accused persons.

2. At the outset, it has been brought to the notice
of this Court that during the pendency of the application before this
Court, the aforesaid daughter of the petitioner was recovered and
her statement was recorded by a Judicial Magistrate under Section
164 of the Code of Criminal Procedure on 3rd July, 2015.



3. Learned counsel for the State has submitted that the age of the victim was assessed by the Magistrate as 19 years and she has also given her age as 19 years and stated that she had voluntarily gone together with one Rabindra Kumar on 23.03.2015 and got herself married with him in the Mahabir Mandir, Patna and since then both of them are living as husband and wife and she is also pregnant. The alleged victim was also examined by a team of doctors on 3rd July 2015 and the doctors have opined the victim to be aged about 17-18 years and further opined that the victim is pregnant of 35 weeks.

4. It has been contended by learned counsel for the State that investigation of the case has already been completed and a direction has been given by the Supervising Officer to the Investigating Officer of the case to submit the final report holding the case to be a “mistake of fact”.

5. I have heard learned counsel for the parties and perused the material available on record.

6. In view of the submissions advanced by the learned counsel for the State at the Bar, in the opinion of this Court, the first prayer of the petitioner to recover the girl has become infructuous as the daughter of the petitioner has already been recovered. So far as the second prayer of the petitioner to direct the Investigating Officer to arrest the accused persons named in the FIR is concerned, the same cannot be allowed in view of the fact

that the alleged victim has totally contradicted the allegations made by the petitioner in the FIR in her statement under Section 164 of the Code of Criminal Procedure. She has stated that she was neither abducted nor coerced by any one. So far as the third prayer made in the present application for giving direction to the Investigating Officer to complete the investigation of the case is concerned, the same has also become infructuous in view of the assertions made in the counter-affidavit filed on behalf of respondents no. 5 to 7, wherein it has been categorically stated that the investigation of the case is complete and a report under Section 173(2) of the Code of Criminal Procedure is likely to be submitted holding the accusation against the accused persons to be “mistake of fact”.

7. Regard being had to the discussions made, hereinabove, the application lacks merit. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

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