

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43011 of 2015

Arising Out of PS.Case No. -20 Year- 2015 Thana -MAHILA P.S. District- MADHUBANI

Rajiv Prasad Chaurasia @ Rajiv Kumar Son of Digambar Prasad Resident
of Village - Rakhbari, P.S.-Rudrapur, Dist.-Madhubani

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

Appearance :

For the Petitioner : Mr. Chandra Mauli Chaurasia, Advocate.

For the Opposite Party : Mr. M.Haque(App)

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

6 21-01-2016 Heard learned counsel for the petitioner as well as the
learned Additional Public Prosecutor.

The petitioner was granted provisional bail vide order dated 18.12.2015 for the purpose of reconciliation, but it is informed that the dispute of the parties could not be resolved amicably.

The accusation against the petitioner is that he established physical relation with the informant and when she became pregnant, the petitioner got terminated her pregnancy. Furthermore, the informant pressurized the petitioner to solemnize marriage, but petitioner refused to solemnize his marriage with the informant.

Learned counsel appearing for the petitioner drew my



attention towards Annexure-5 to the petition and submits that prior to institution of the present case the informant filed maintenance case bearing Maintenance Case No. 154 of 2015 in the court of Principal Judge, Family Court, Madhubani and in the aforesaid case it was specifically pleaded by the informant that her marriage was solemnized with the petitioner on 04.06.2014. It is further contended by him that according to the present case, the petitioner established physical relation with her after putting vermilion on her forehead and therefore it is not a case in which the physical relationship was established on false promise of marriage. It is further contended by him that although petitioner denies the solemnization of marriage, but even then the present case does not come under the ambit of Section 376 of the IPC and at best a case under Section 498A and other relevant provisions of the Indian Penal Code is made out.

Learned Additional Public Prosecutor vehemently opposed the prayer and submitted that it is a clear cut case of Section 376 of the IPC as the petitioner took the consent of the informant by playing fraud upon her and not only raped her but also got terminated her pregnancy.

Considering the facts and circumstances as well as submissions of the parties the provisional bail granted to the

petitioner vide order dated 18.12.2015 stands confirmed. Let a copy of this order be sent to the Learned Sub-Divisional Judicial Magistrate, Madhubani in connection with Mahila P.S. Case No. 20 of 2015, corresponding to G.R. No. 1090 of 2015.

It is made clear that the observations given in this order shall not affect the trial and it is only for the purpose of grant of bail to the petitioner and shall not be taken into consideration by the trial court at the time of final judgment and furthermore the trial court shall pronounce its judgment on the basis of materials available before the court concerned without being prejudiced by this order.

With the aforesaid observations, this application is disposed of.

(Hemant Kumar Srivastava, J.)

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