

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2301 of 2016

Arising Out of PS.Case No. -10 Year- 2015 Thana -MAHILA PS District- KATIHAR

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Binay Ram, Son of Arjun Ram, Resident of Mohalla - Gaushala Ram Sabha
(Ward No. 40), Police Station - Town, District - Katihar.

.... Petitioner

Versus

1. The State of Bihar.
2. Gulabi Devi Wife of Yogendra Roy Resident of Mohalla - Gaushala Ram
Sabha, Police Station - Town, District - Katihar.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Ajay Kumar, Advocate.

For the Opposite Parties : Mr. Arun Kr.Singh 5(App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 26-08-2016 Heard both sides.

The petitioner filed this petition under Section 482 of the Code of Criminal Procedure for quashing the order dated 15.09.2015 passed in Katihar (Mahila) P.S. Case No. 10 of 2015, corresponding to G.R. No. 432 of 2015, by which learned First Additional Sessions Judge-cum-Special Judge, Katihar took cognizance under Sections 4, 8 and 12 of the Protection of Children from Sexual Offence Act (hereinafter referred to as ‘the POCSO Act’) differing with the findings of the investigating officer who submitted final form finding the case false.

The brief facts which are relevant for disposal of this case are that on the basis of fardbeyan of Gulabi Devi, mother of

the victim of Katihar (Mahila) P.S. Case No. 10 of 2015 was registered under Section 4 of the POCSO Act. The informant alleged that the petitioner was imparting tuition to her minor daughter but petitioner was sexually exploiting her for last many months. The daughter of the informant narrated the entire story to her mother. The police took up the investigation and after completion of investigation submitted final form finding the case false under Section 4 of the POCSO Act.

Learned First Additional Sessions Judge-cum-Special Judge, Katihar after perusing the record found sufficient material to take cognizance and accordingly took cognizance under Sections 4, 8 and 12 of the POCSO Act, differing with the findings of the investigating officer.

Learned counsel for the petitioner assailed the order taking cognizance on the ground that the statement of the informant is not worth reliable. The doctor examined the victim and did not find any sign of sexual harassment and also assessed age of the victim between 17-18 years. It is further submitted that father of the victim stated that there was a Panchayati and he demanded money for settlement of the dispute. The police after finding the case false submitted final form but the learned Special Judge without appreciating the material on record took

cognizance.

On perusal of the order impugned as well as the FIR and the case diary, it appears that the informant, mother of the victim alleged that the petitioner who was imparting tuition to the victim was sexually harassing the minor girl for last many months and the victim after being fed up disclosed all the facts to her mother, upon such the case was registered. The informant, the victim in her statement under Section 164 Cr.P.C. and the witnesses have also reiterated the same facts. The most important witness is the victim and she has made specific allegation that the petitioner, her tutor sexually exploited her, therefore, I find that learned First Additional Sessions Judge-cum-Special Judge, Katihar has rightly took cognizance under Sections 4, 8 and 12 of the POCSO Act differing with the findings of the investigating officer as the victim is a minor school going girl and, she herself stated about sexual harassment made by her tutor.

Considering the facts aforesaid, I do not find any illegality in the order impugned. Accordingly, this quashing petition is dismissed.

(Prabhat Kumar Jha, J.)

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