

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.57591 of 2015

Arising Out of PS.Case No. -162 Year- 2015 Thana -BARSOI District- KATIHAR

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Md. Majid, S/o Md. Imran Resident of Village- Nayatola, Mahi Nagar P.S
Barsoi, District- Katihar.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Raghvendra Kumar Singh, Advocate

For the Opposite Party/s : Md.Nazir Ansari(A.P.P)

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

2 22-01-2016 Heard learned counsel for the petitioner and the State.

The petitioner apprehends his arrest in a case registered for the offence punishable under Section 366(A), 323, 376 and 504 of the Indian Penal Code.

As per the complaint made by the complainant, who is divorcee and is having two children, the petitioner took her to his Nanihal and kept her for 20 days and had committed intercourse with her.

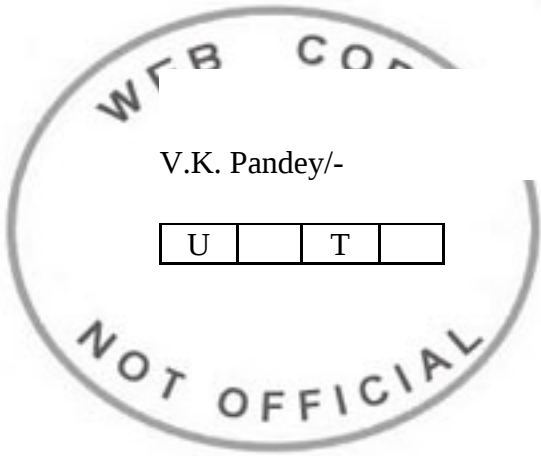
It is submitted on behalf of the petitioner that though it is stated that the complainant raised objection but it does not appear that any objection was made by her. She did not raise alarm when the petitioner took her to his Nanihal and she stated that when the petitioner promised her of marriage then she allowed him to

commit intercourse with her. Thereafter, it is alleged that signature on some blank papers were forcibly obtained by the petitioner but there is no allegation of such papers being used by the petitioner at any where. It is stated that as per the allegation when the petitioner refused to marry her and their family also refused to recognize her, the complainant has lodged the present complaint case.

It is urged on behalf of the petitioner that the complainant was aged about 20 years and breach of compromise is not a fact within the meaning of the Penal Code. He refers to the decisions of the Apex Court in this regard rendered in (2003) 4 SCC 46 and 2005 (1) PLJR SC 119. Thus, it is urged that the complainant was consenting party even on the promise given by the petitioner of marrying her, however, refusal to marry does not necessarily mean that the petitioner had committed rape upon her.

Having regard to the facts and circumstances of the case, let the petitioner, namely, Md. Majid be released on bail in the event of his arrest/surrender before the court below within a period of six weeks from today in connection with Barsoi P.S. Case No.162/2015, on furnishing bail bond of Rs.10,000 (Ten Thousand Rupees) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Katihar subject to the conditions as laid down under sub-section (2) of Section 438 of

the Code of Criminal Procedure.



(Dr. Ravi Ranjan, J)

V.K. Pandey/-

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