

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.454 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

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1. Mamta Kumari @ Fija Begum W/o Md. Naseem Akhtar @ Naseem Akhtar, D/o Ramjee Prasad
 2. Md. Naseem Akhtar @ Naseem Akhtar S/o Nabi Hussain Both residents of village - Jamadar Tola, P.S. - Chautarwa, District - West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home, Police Department, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Superintendent of Police, Bagaha, West Champaran.
4. The Officer Incharge of Chautarwa Police Station, West Champaran.
5. Ramji Prasad S/o Late Jwala Prasad Village - Jamadar Tola, P.S. - Chautarwa, Distt - West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Baxi S.R.P. Sinha, Sr. Advocate
Mr. Vijay Kumar Singh No.I, Advocate
For the Respondent/s : Mr. N.H. Khan, SC-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 07-08-2017

Heard learned counsel for the parties.

2. The petitioners have invoked the jurisdiction of this Court under Articles 226 and 227 of the Constitution of India for quashment of the F.I.R. of Chautarwa P.S. Case No.42 of 2017 (Annexure-5) on the ground that the petitioners are major and they have voluntarily married with each other. Since the marriage was not recognized by the parents. In the circumstances, respondent No.5 Ramji Prasad, father of the petitioner Mamta Kumari @ Fija Begum,



lodged the aforesaid case alleging abduction of Mamta Kumari @ Fija Begum by petitioner No.2 Md. Naseem Akhtar @ Naseem Akhtar. The supporting school certificate of both the petitioners are available as Annexures-PP-1, P-1/A, P-1/B, P-2 and P2/B to substantiate that the petitioners were major when they entered into marriage.

3. No one appears on behalf of respondent No.5 though Vakalatnama was filed earlier.

4. The State-respondents in their counter affidavit vide para-6 of the counter affidavit have stated that the investigation of the case is already concluded now and the police has found the allegation as untrue being mistake of the fact. He further submits that two of the family members of petitioner Md. Naseem Akhtar @ Naseem Akhtar i.e., his father and brother were apprehended at the initial stage of the investigation. Since statutory period for completion of the investigation was going to expire the police submitted charge sheet against them especially for the reason that till that date victim was traceless. However, after recovery of the victim her statement under Section 164 Cr.P.C. was recorded followed by her medical examination to ascertain her age. The victim stated in her statement under Section 164 Cr.P.C. that she had voluntarily married with petitioner No.2 and no one had abducted/kidnapped her. Therefore, final form at Annexure-1 was submitted.



5. Submission of the learned counsel for the petitioner is that under the change circumstances that the matter is of love affairs which resulted in marriage between the two majors as well as the fact that the police has submitted final form stating a case of mistake of fact, further proceeding of the criminal case would be an abuse of the process of the Court.

6. Considering the facts of this case, I find substance in the submission aforesaid, hence, entire pending proceeding arising out of Chautarwa P.S. Case No.42 of 2017 stands hereby quashed and this application stands allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.08.2017
Transmission Date	10.08.2017

