

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.32833 of 2014

Arising Out of PS.Case No. -1954 Year- 2013 Thana -GAYA COMPLAINT CASE District- GAYA

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Chanchal Kumar son of Mahanand Prasad, resident of village Sonapur, P.S. Belaganj, District Gaya, at present resident of village-Nadiyawan, P.S. Kako, District Jehanabad.

.... Petitioner/s

Versus

1. State of Bihar
2. Shobha Devi daughter of Rajendra Prasad, wife of Nagmani, resident of village-Bithosharif, P.S. Chandauli, O.P. Chakand, District Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.

For the Opposite Party No.2 : Mr. Sunil Kumar Yadav, Adv.

Mr. Yotendra Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 11-08-2017

The present matter arises out of Complaint Case No. 1954 of 2013, filed by the Opposite Party No.2 against the petitioner herein (Accused No.3) and other accused persons, inter alia, alleging therein that as far as the petitioner herein is concerned, he is “Mausera Devar” (cousin brother of the husband of the Opposite Party No.2). It has been stated in the complaint petition that the accused Rajeev Kumar used to state that he would arrange for employment in some private institution for her. It has been further alleged that the accused persons had taken her into confidence and told her to come with them so that she could be provided employment, hence, she had concealed this fact from her husband, however, she persuaded her husband to come along



with her for going to her parents home. At Jehanabad station, on the pretext of taking ticket, she went away with accused Rajeev Kumar, Deepak Kumar Giri and Chanchal Kumar, whereafter the said accused persons took the Opposite Party No.2 on a Bolero Jeep.

2. It is further stated in the complaint petition that the Opposite Party No.2 was kept by the said accused persons at Jehanabad for 8-10 days on the pretext of getting her employed. Thereafter, the accused persons had taken her to Patna and kept her at the house of the brother of the accused Deepak Kumar Giri. Thereafter, the accused persons brought the Opposite Party No.2 at the Railway station where the accused Rajeev Kumar and Chanchal Kumar told her to give them her ornaments and when she is employed, they would return back the ornaments. The Opposite Party No.2 was then sent to Haryana along with the accused Deepak Kumar where the accused Deepak Kumar engaged in sexual abuse with the Opposite Party No.2, after giving her medicines and also kept her confined in a house. She was also beaten by the said Deepak Kumar Giri and was also not given mobile phone. After about two months, when Deepak Kumar Giri came to Jehanabad, after leaving the Opposite Party No.2 at Haryana, the Opposite Party No.2 gave information about the entire incident to the Railway Police Officer-in-charge, however, the Railway Police took her to her in-laws place in the night of



25.09.2013 at about 7/30 P.M.. Since the case was not registered either by the Railway Police or by the local police, she filed the connected complaint case.

3. The learned Judicial Magistrate, Ist Class, Gaya, by an order dated 14.04.2014 passed in Complaint Case No. 1954 of 2013, has taken cognizance for the offences punishable under Sections 342, 498 and 34 of the Indian Penal Code. The aforesaid order dated 14.04.2014 has been assailed by the petitioner in the present application.

4. The learned counsel for the petitioner has submitted that the husband of the Opposite Party No.2 had instituted a complaint case bearing No. 2 of 2013 dated 20.08.2013 leading to registration of the F.I.R.. bearing Jehanabad P.S. Case No. 53 of 2013 dated 04.11.2013 against Deepak Kumar. It is further submitted that in the aforesaid Jehanabad P.S. Case No. 53 of 2013, the police has submitted final report on 15.03.2014 wherein Sri Rajeev Kumar and Chanchal Kumar, i.e. the petitioner herein, have been found innocent, however, charge sheet has been submitted against the FIR named accused person, namely, Deepak Kumar for the offences punishable under Sections 366 and 379 of the Indian Penal Code.

5. The learned counsel for the Opposite Party No.2 has submitted that a bare perusal of the Complaint case as also the order



taking cognizance would show that a cognizable offence is definitely made out as against the petitioner herein, hence the said complaint case is not liable to be quashed.

6. Having regard to the facts and circumstances of the case as also the submissions made by the learned counsel for the parties, I find that if the allegations made in the complaint petition are taken at their face value and accepted in their entirety, the same definitely discloses commission of a cognizable offence as well as constitute a cognizable offence, hence, the present case is not a case where exercise of the extraordinary power under Section 482 of the Cr. P.c. is warranted. Another aspect of the matter is that the Opposite Party No.2 has made specific allegations of illegal and wrongful confinement as well as enticing her away with criminal intent, hence, the learned Judicial Magistrate, Ist Class, has rightly found the connected complaint case to be a fit case for taking cognizance under Sections 342, 498 and 34 of the Indian Penal Code.

7. I may hasten to add that the present case does not fall within the ambit of the guideline laid down by the Hon'ble Supreme Court of India in the case of **State of Haryana vs. Bhajan Lal**, reported in *1992 Supp (1) SCC 336*, hence does not warrant quashing of either the complaint case or for that matter the order taking cognizance dated 14.04.2014.



8. For the reasons aforesaid, I find no merit in the present petition. Accordingly, the present petition is dismissed.
9. However, there shall be no order as to costs.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	09-08-2017
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