

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17458 of 2017

Arising Out of PS.Case No. -100 Year- 2016 Thana -MAHILA P.S. District- MUZAFFARPUR

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Vikash Kumar Chaudhary @ Vijay Chaudhary son of Radhe Shyam Chaudhary,
resident of village- Mohammadpur Patahi, Police Station- Sadar, District-
Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rangoli Kumari daughter of Abhas Kumar Thakur, resident of village-
Madhubani, P.S. Sadar, District- Muzaffarpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uma Shankar Verma, Advocate

For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 04-08-2017

Heard Mr. Uma Shankar Verma, learned counsel for the
petitioner and Mr. Jharkhandi Upadhyay, learned Additional Public
Prosecutor for the State.

2. This application under Section 482 of the Code of
Criminal Procedure (for short 'the CrPC') has been filed for quashing
the order dated 27.02.2017 passed by the learned Additional Session
Judge-cum-Special Judge, Protection of Children from Sexual
Offences Act, Muzaffarpur in Muzaffarpur Mahila P.S. Case No.100
of 2016 by which learned Additional Session Judge-cum-Special
Judge has rejected the petition of the petitioner filed under Section
227 of the CrPC to discharge him from the offences punishable under



Section 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act (for short 'POCSO Act').

3. Mr. Uma Shankar Verma, learned counsel for the petitioner has submitted that on completion of investigation, the police submitted final report holding 'lack of evidence', but the learned Special Judge differed with the police report and took cognizance of the offence. He has submitted that there is no credible material against the petitioner to put him on trial for the offences alleged. He has further submitted that the victim girl was found to be aged about 18 to 19 years by the Medical Board and, hence, there would be no application of Section 4 of the POCSO Act.

4. On the other hand, learned counsel for the State has submitted that it would be manifest from the FIR that the victim has disclosed her age about seventeen years and she has alleged that while she was returning from attending her school, this petitioner forcibly took her to a field and committed rape upon her. He has further contended that as per the statement of the victim, she was forced to have oral sex. He has submitted that such allegations coupled with the fact that the age of the victim, as disclosed by her in the FIR, is seventeen years would certainly incriminate the petitioner for the offences alleged and, as such, it is not a fit case for discharge.

5. I have heard learned counsel for the parties and perused



the record.

6. There is specific allegation against the petitioner in the FIR that he forcibly ravished her and also forced her to have oral sex with him. From perusal of the impugned order passed by the court below, it would be evident that the victim has fully supported prosecution case in her statement recorded under Section 161(3) of the CrPC as also under Section 164 of the CrPC. In that view of the matter, if the court below has found the case to be fit for framing of charge, no illegality can be found in the order impugned.

7. Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.08.2017
Transmission Date	11.08.2017

