

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.36044 of 2014

Arising Out of PS.Case No. -75 Year- 2008 Thana -GANGABRIDGE District-
VAISHALI(HAJIPUR)

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Ramesh Kumar Son of Ram Chandra Bhagat, resident of village-Mokimchak, P.S.-
Bidupur, District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Binod Choudhary, resident of village- Kowari Baraitola, PS-Ganga Bridge,
Distt.-Vaishali.
3. Sobha Kumari wife of Ramesh Kumar, resident of village – Mokimchak, PS-
Bidupur, District-Vaishali.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 22-09-2017

1. This criminal miscellaneous application under section 482 of the Code of Criminal Procedure has been filed to quash the order dated 4th March 2014 passed by the learned Chief Judicial Magistrate, Vaishali at Hajipur in Sadar (Ganga Bridge) Police Station Case No. 75 of 2008 whereby and whereunder the learned Magistrate finding *prima facie* case against the petitioner, took cognizance for the offences under sections 366 and 366(A) of the Indian Penal Code.

2. Heard both sides and perused the record.

3. The opposite party no. 2 lodged an FIR alleging



therein that this petitioner abducted/kidnapped his minor daughter, namely, Shobha Kumari aged about 16 years with some ulterior motive.

4. It has been submitted that the daughter of the informant was a major girl. The petitioner is resident of same locality and he had love affairs with the daughter of informant. The daughter of informant voluntarily left her house and married with this petitioner. She was produced before the learned Magistrate on 23.11.2009 where her statement was recorded under section 164 of the Code of Criminal Procedure. She has stated that she voluntarily married with this petitioner without any force and coercion and from the said wedlock, she has been blessed with a daughter who was aged about 7 months. She expressed her inclination to live with her husband (petitioner) at his place. She disclosed her age as 21 years. The learned Magistrate, who recorded her statement, has also assessed her age as such.

5. On perusal of case diary, I find that there is no eye witness to the occurrence of kidnapping. The witnesses have stated that the petitioner and the daughter of informant had love affairs. They were seen together on several occasions. It further appears that after recording the statement of daughter of informant, she was allowed to go at the place of her husband. The learned counsel for the petitioner



submits that the daughter of informant is happily residing with this petitioner and she has two children from the said wedlock. There is nothing on record to disbelieve the age of daughter of informant, which has been recorded by the Magistrate. The opposite party nos. 2 and 3 have already appeared in this case but nobody appeared to oppose this criminal application.

6. In view of the above facts, the criminal prosecution of this petitioner appears to be an abuse of process of Court. As such, the order dated 4th March 2014 passed by the learned Chief Judicial Magistrate, Vaishali at Hajipur in Sadar (Ganga Bridge) Police Station Case No. 75 of 2008 as well as criminal prosecution of this petitioner is hereby quashed.

7. Accordingly, this criminal miscellaneous application is allowed.

(Sanjay Kumar, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04.10.2017
Transmission Date	04.10.2017

