

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.54277 of 2013

Arising Out of PS.Case No. -241 Year- 2012 Thana -SHASTRINAGAR District- PATNA

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Manish Kumar, S/O Sri Vijay Prasad Gupta, R/O village- Bari Ballia, P.S.- Ballia,
District- Begusarai.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abdul Wadood, Advocate
Mr. Kalanand Jha, Advocate

For the Opposite Party/s : Mr. Hirday Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 19-05-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order of cognizance dated 16.10.2012 passed by the Chief Judicial Magistrate, Patna, in Shastrinagar P.S. Case No.241 of 2012 by which the learned Magistrate has taken cognizance against the petitioner and others for the offence under Section(s) 363, 366-A Indian Penal Code.

2. It has been submitted on behalf of the petitioner that the police has submitted charge-sheet only against Anuj Kumar @ Rohit Kumar and shown this petitioner as “Not sent-up”, but the Court below has taken cognizance against the petitioner also.

3. From the impugned order, it appears that the



learned Court below on the basis of further statement of the informant in para 2 of the case diary and statement of the victim recorded under Section(s) 164 Cr. P. C. has come to the conclusion that there are sufficient materials to take cognizance against the petitioner also along with Anuj Kumar @ Rohit Kumar for the offence under Section(s) 363, 366-A Indian Penal Code.

4. Statement of the victim girl recorded under Section(s) 164 Cr. P. C. has been annexed as Annexure-2, wherein, she has taken the name of this petitioner along with co-accused Anuj and other accused persons.

5. The learned Magistrate at the time of taking cognizance is merely required to see *prima facie* case and he is not required to appraise the statement of witnesses in the manner as done in the trial.

6. In view of such, this Court does not find any illegality in the impugned order of cognizance dated 16.10.2012 passed by the Chief Judicial Magistrate, Patna, in Shastrinagar P.S. Case No.241 of 2012 taking cognizance against the petitioner and others for the offence under Section(s) 363, 366-A Indian Penal Code.

7. The application is, accordingly, dismissed.

8. Petitioner is given liberty to raise all the points,



as raised in the present application, at the time of framing of charge,
which shall be considered and disposed of in accordance with law
without being prejudiced by this order.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
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