

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.14658 of 2016

Arising Out of PS.Case No. -29 Year- 2011 Thana -MADHEPUR District- MADHUBANI

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1. Md. Ashfaq Son of Md. Mansoor Alam Resident of Village-Sohrai, PS
Madhepura, District Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Aiasa Khatoon, Wife of Md. Mustafa Respondent of Village- Sohrai, PS
Madhepura, District Madhepura.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shahnawaz Ali, Adv.
For the Opposite Party/s : Mr. J. N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 31-08-2017

Heard Mr. Shahnawaz Ali, learned counsel for the
petitioner and Mr. J. N. Thakur, learned Additional Public Prosecutor
for the State.

2. This application under Section 482 of the Code of
Criminal Procedure (for short 'Cr.P.C.') has been filed by the
petitioner seeking quashing of the order dated 27.01.2016 passed by
the learned Additional Sessions Judge-II, Madhubani in Sessions
Trial No. 68 of 2013 whereby the application of the petitioner seeking
discharge from the case has been rejected.

3. The petitioner has been made named accused in
Madhepur P.S.Case No. 29 of 2011 registered under Section 376 of



the Indian Penal Code (for short 'IPC'). In the FIR, the victim has alleged that on the point of knife the petitioner dragged her into a room and forcibly ravished her. After investigation, the police filed charge-sheet under Section 376/511 of the IPC.

4. It has been submitted by the learned counsel for the petitioner that the medical report does not corroborate the allegations made in the FIR and, hence, the court below ought to have discharged the petitioner while exercising its power under Section 227 of the Cr.P.C.

5. Mr. J. N. Thakur, learned Additional Public Prosecutor for the State has vehemently opposed the application filed by the petitioner. He has submitted that there is specific allegation against the petitioner to have ravished the victim. He has contended that the Hon'ble Supreme Court in many of its decisions has held that even if the medical report does not corroborate the prosecution case and the deposition of the victim and other attending circumstances prove the case, an accused may be convicted in a case under Section 376 of the IPC. He has contended that merely because medical report does not corroborate the prosecution case, the petitioner cannot be discharged from the case.

6. I have heard learned counsel for the parties and perused the record.



7. I find substance in the submissions made by the learned Additional Public Prosecutor for the State. The allegations made in the FIR do attract the ingredients of the offence punishable under Section 376 of the IPC. They have been supported by the witnesses during investigation. Having taken into consideration the materials available on record, the learned Magistrate took cognizance of the offence and committed the case to the Court of Session. The Court of Session having examined the evidence on record found sufficient material to put the petitioner on trial.

8. I see no illegality in the order impugned. The application, being devoid of any merit is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
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