

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50148 of 2013

Arising Out of PS.Case No. -519 Year- 2011 Thana -KHAZANIHAT District- PURNIA

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1. Bikash Kumar Tiwari S/O Triloki Tiwari Resident Of Village & P.S- Mashrakh,
Distt- Saran (Chapra)

.... Petitioner/s

Versus

1. The State Of Bihar

2.Priya Kumari w/o Bikash Kumar Tiwari, village and P.S. Mashrakh, District
Saran, at present Parsa Bazar, Patna and Daughter of Satya Narain Singh, village
Betla, P.O. Pokhari, P.S. Barwadih, District Palamu.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 01-05-2017

Heard learned counsel for the parties.

The present application has been filed for quashing
the order dated 15.03.2013, passed by learned C.J.M. Purnia in K. Hat
(Sahayak) P.S. Case No. 519 of 2012, taking cognizance of the
offences punishable under Sections 376 and 493 of the Indian Penal
Code, on the basis of chargesheet, case diary and statement recorded
under Section 164 of the Cr.P.C of the victim girl.

Notice was validly served on Opposite Party No. 2
but today none has appeared on behalf of the Opposite Party No. 2.



Learned counsel for the petitioner has submitted that compromise has taken place between the parties. The petitioner and Opposite Party No. 2, have married with each other. The counsel for the petitioner has pointed out the compromise petition dated 02.09.2013, filed in the court below which has been annexed as Annexure-3 to this application.

Learned APP has submitted that the cognizance has been taken on the basis of the materials available in the case diary.

From perusal of the impugned order, this Court finds that on the basis of the written report filed by the informant, the instant case was registered. The police after investigation submitted chargesheet against the petitioner for the offences punishable under sections 376 and 493 of the Indian Penal Code. The court below by the impugned order took cognizance against the petitioner under Section 376 and 493 of the Indian Penal Code on the basis of chargesheet, case diary and the statement of the victim girl recorded under Section 164 of the Cr.P.C.

The court below is required to see only prima facie case at the time of taking cognizance on the basis of allegation, the written report and material available in the case diary. This Court, therefore, does not find any illegality in the impugned order by which cognizance has been taken against the petitioner by the learned



C.J.M., Purnia.

The petitioner is granted liberty to press the petition of compromise dated 02.09.2013, filed in the court below which shall be disposed of by the court below in accordance with law, after hearing both the parties, without being prejudiced by this order.

This criminal miscellaneous application is, accordingly, disposed off.

(Sanjay Priya, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N/A
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