

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28569 of 2012

Arising Out of PS.Case No. -96 Year- 2008 Thana -null District- PURNIA

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Bharat Singh @ Bharat Kumar Singh, son of late Durga Singh, resident of village Rasoolpur, Dahla, P.S.- Sahebganj, District- Sahebganj, (Jharkhand), at present resident of B-70, Madhu Bihar, Dwarika, Sector-3, New Delhi – 59.

.... Petitioner/s

Versus

1. The State of Bihar
2. Ganesi Rishi, son of Radhe Rishi, resident of village Rampur, Daania, P.S. Muffasil, Distt. Purnea.
3. Meera Devi, daughter of Ganeshi Rishi, wife of Nunu Lal Yadav, B-70, Madhu Bihar, Sector-3, Dwarka, New Delhi – 59.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mritunjay Pd. Singh, Advocate.
Mr. Rajesh Kumar Singh, Advocate.

For the State : Dr. Kr. Uday Pratap, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 22-08-2017

1. This application under Section 482 Cr. P.C. has been filed for quashing the order dated 17.12.2009 passed by the learned Chief Judicial Magistrate, Purnea, in connection with Sadar Thana P.S. Case No. 96 of 2008 by which the learned Magistrate took cognizance for the offence under Section 366(A), 376 of the Indian Penal Code and Sections 3 (1)(x) of SC/ST Act.

2. Heard learned counsel for the petitioner and learned counsel for the State.

3. The counsel for the petitioner has submitted that police after investigation submitted Final Form as mistake of fact. The



victim girl herself has appeared and gave her statement under Section 164 Cr. P.C. (Annexure-2) wherein she has stated that she is living in Delhi with Bharat Singh (petitioner) who performed her marriage with Nunu Lal Yadav. It has further been submitted that the informant has filed Cr. WJC No. 794 of 2008 wherein in terms of the order of the Hon'ble Court, the statement of victim girl was recorded before the Joint Registrar (Judicial) in which the victim girl has stated before the Joint Registrar (Judicial) that she is staying with Bharat Kumar Singh (petitioner) as his daughter and she has been married with Nunu Lal Yadav. Her husband is driver and resides in Delhi. She stated her age between 19-21 years whereas the Joint Registrar (Judicial) has assessed the age of victim girl as 17 years. In terms of the statement of the victim girl, Cr. WJC No. 794 of 2008 filed in the Hon'ble Court for release of the victim girl, was dismissed.

4. From the impugned order it appears that court below has taken cognizance against the petitioner for the offence under Section 366A, 376 of the Indian Penal Code and Sections 3 (1) (X) of SC/ST Act after differing with the Final Form submitted by the police.

5. It is apparent from the impugned order that no any reason has been given by the learned Magistrate for differing with the Final Form submitted by the police. He has merely stated in



mechanical manner that on the basis of materials available on the record, the case under Sections 366A, 376 of the Indian Penal Code and Sections 3(1)(x) of SC/ST Act is made out against the petitioner.

6. The victim girl herself in her statement under Section 164 Cr. P.C. (Annexure-2) as well as in her statement before the Joint Registrar (Judicial) in Cr. WJC No. 794 of 2008, has stated that she has been living with this petitioner since her childhood. The petitioner has got her marriage performed with Nunu Lal Yadav, with whom she is living happily in Delhi.

7. In such circumstances, the impugned order dated 17.12.2009 passed by the learned Chief Judicial Magistrate, Purnea, in connection with Sadar Thana P.S. Case No. 96 of 2008, is hereby quashed.

8. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	05/09/2017
Transmission Date	05/09/2017

