

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41739 of 2014

Arising Out of PS. Case No.-117 Year-2013 Thana- SABAUR District- Bhagalpur

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Prem Narayan Mandal Son of Late Yuddo Mandal, Resident of village-
Bajjnathpur, P.S -Sabour, District-Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sarvan Kumar, Adv
For the Opposite Party/s : Mr. AJAY KR. JHA (APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 28-08-2017

Heard learned counsel for the parties.

The present quashing application under Section 482 of the Cr.P.C has been filed for quashing the order dated 14.05.2014, passed by the learned Adhoc Additional Sessions Judge-I, Bhagalpur in S.T. No. 1112 of 2013, by which the discharge petition of the petitioner dated 07.01.2014, under Section 228(1) of the Code of Criminal Procedure has been rejected.

Briefly stated, the fact of the case is that one Tara Devi wife of Sri Ram Mandal gave a written report



before the Officer-in-Charge of Sabour Police Station on 15.05.2013 that on the same date at about 4:00 pm her daughter Sabanam Kumari aged about 5 years was playing in front of the shop of Prem Kumar Mandal. The accused-petitioner Prem Kumar Mandal, took away her daughter inside his shop and tried to molest her, in the meantime, the Father-in-Law of the informant reached there and thereafter Prem Kumar Mandal, fled away.

After institution of FIR, the case was investigated by the police and chargesheet was submitted under Section 354(B) of the Indian Penal Code. After submission of chargesheet and police papers, the Chief Judicial Magistrate, Bhagalpur, on the basis of police report, case diary and other materials available on record took cognizance under Sections 376/511 and 354(B) of the Indian Penal Code by its order dated 27.08.2013 and the case was committed to the court of sessions.

A petition was filed by the accused-petitioner on 07.01.2014, to transfer the case to the court of Chief Judicial Magistrate, Bhagalpur for trial and disposal on the ground that the case is not exclusively triable by the court



of session. The learned Adhoc Additional Sessions Judge-1st, Bhagalpur, after perusing the case record and after going through the written application of the informant had found that the offence under Sections 376/511 and 354(B) of the Indian Penal Code is made out. The Adhoc Additional Sessions Judge-1st, Bhagalpur, has meticulously examined the matter and after referring several paragraphs of the case diary found that there is sufficient material in the case diary to frame the charge under Sections 376/511 and 354(B) of the Indian Penal Code against the accused-petitioner and rejected the discharge petition dated 07.01.2014 filed under Section 228(1) of the Code of Criminal Procedure and directed for framing of charge against the accused-petitioner under Section 376/511 and 354(B) of the Indian Penal Code. The court is empowered to alter, add, amend the charge at any stage of trial.

After going through the orders passed by the court below, I am not inclined to interfere with the order dated 14.05.2014 passed by the Adhoc Additional Sessions Judge-1st, Bhagalpur, rejecting the discharge petition of the accused-petitioner, as such the present petition filed under



Section 482 of the Code of Criminal Procedure does not require any interference.

The petition stands dismissed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	04.09.2017
Transmission Date	04.09.2017

