

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49190 of 2014

Arising Out of PS. Case No.-204 Year-2014 Thana- PHULWARI District- Patna

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Pujun @ Nazir @ Pujan Son of Nazir Ahmad @Md. Naxir Resident of
Mohalla - Minhaz Nazar , House of Nayeem Babarchi, P.S. - Phulwarisharif,
District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sabnam Praveen D/o Md. Naeem Resident of Minhaz Nagar P.S. -
Phulwarisharif District - Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Tarun Kumar Sinha, Adv
For the Opposite Party/s : Mr. Sanjay Kumar Singh (APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 21-11-2017

Heard learned counsel for the parties.

This petition under section 482 of the Cr.P.C has
been filed for quashing the order of cognizance dated
26.05.2014 passed in Phulwarisharif P.S. Case No. 204 of
2014 (S.Trial No. 923 of 2014) by which cognizance under
Sections 376 and 506 of the Indian Penal Code has been taken
by the learned C.J.M. Patna, against the accused petitioner.

Briefly stated, the facts of the case is that on
08.04.2014, in the eveninnng the informant Shabnam Praveen



filed a written complaint before the Officer-in-Charge, Phulwarisharif P.S. that she is residing in her house with her family members with two daughters namely Rayba Praveen aged about six years and Sheema Praveen aged about four years and three sons. It has been further alleged that she is living in a rented house situated at Minhaz Nagar, Phulwarisharif, Patna, whereas one Puzun was also living in that building along with his parents and brothers. Her daughter and her sister's daughter were playing on the roof of the house and during that period accused Puzun had sexually assaulted both the daughters of informant and he also threatened that if the same is disclosed they will be killed. She came to know about this fact on 07.04.2014 at 7:00 pm in the evening and went to see the accused-petitioner but he was not found in his room. On 08.04.2014 at about 4:00 pm, he came there and on asking he denied but when the mohalla people grilled him, he accepted his guilt and he was handed over to the police on the basis of said written application given by the informant Phulwarisharif P.S. Case No. 204 of 2014 was instituted against the accused-petitioner under Sections 376 and 506 of the Indian Penal Code and on 26.05.2014 cognizance was taken by the learned C.J.M. Patna, and the



case was committed to the court of Sessions being Sessions Trial No. 923 of 2014 and the same is pending in the court of A.D.J.-IX, Patna.

Learned counsel for the petitioner submits that he is innocent and has been falsely implicated in this case. The victims were also produced before the trial Court and statement of victims were recorded under Section 164 of the Cr.P.C in which both minor girls have supported the prosecution story. It has further been submitted by learned counsel for the petitioner that medical report does not suggest commission of any rape. This court in its inherent jurisdiction cannot substitute the finding of the trial court. The sufficiency and adequacy of evidence cannot be judged by this Court in its inherent jurisdiction.

At the time of taking cognizance, the trial court has to *prima facie* hold a view that there are materials on record which *prima facie* suggest commission of offence, as such I am not inclined to interfere in the order passed by the learned trial court. However, the petitioner is granted liberty to raise all the issues raised in this petition as well as other issues available to him in law at the time of consideration of discharge petition or framing of charge, if not already framed.



With the said liberty and observation, this petition
is disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.11.2017
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