

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44749 of 2014

Arising Out of PS.Case No. -300 Year- 2014 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

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Vikash Kumar Singh son of Late Chandrika Singh resident of village -
Baidyanathpur, P.S. - Chiraiya, District - East Champaran.

.... Petitioner

Versus

1. The State of Bihar.
2. Ramkishore Singh son of Late Ramagya Singh resident of village -
Baidyanathpur, P.S. - Chiraiya, District - East Champaran.

.... Opposite Party

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Appearance :

For the Petitioner	:	Mr. Umesh Chandra Verma
		Ms. Rashmi Jha
For the State	:	Mr. Mustaque Alam, APP
For the O.P. No. 2	:	Mr. Ajay Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

3 30-11-2017 Heard learned Counsel for the petitioner as well as the

learned Counsel for the State as also the learned Counsel appearing on
behalf of O.P. No. 2.

The petitioner seeks quashing of the order dated 4.7.2014
passed by the Judicial Magistrate, 1st Class, Sikrahana, East Champaran
in Complainant Case No. 300-C of 2014, thereby taking cognizance of
the offence under Sections 363 and 365/34 of the IPC.

The brief fact giving rise to the case is that the informant
first filed a complaint before the Court of SDJM Sikrahana, alleging
therein that the petitioner along with other co-accused persons
kidnapped his daughter-in-law along with her two sons. When his



daughter-in-law raised alarm then he reached there and identified the accused persons in the flash of torch light, but on the point of pistol the accused persons kidnapped his daughter-in-law along with her sons. Later on he went to the house of the accused persons after three days then he threatened him and asked to move away. The complaint was sent to the Police under Section 156(3) Cr.P.C. for institution of the case. Accordingly Chiraiya PS Case No. 144 of 2013 was instituted and the police after investigation finding the case false submitted final form. On protest petition the court proceeded further treating it as complaint case and after enquiry the Court has taken cognizance of the offence.

Learned Counsel for the petitioner submits that the informant's daughter-in-law was not kidnapped by the accused persons. The police made investigation in the matter and found the case false as during investigation the statement of the daughter-in-law of the informant was recorded under Section 164 Cr.P.C., a copy of the same is enclosed with this application, where she has categorically stated before the Court that she was not kidnapped by anyone for the purpose of marriage or for any other reason. She also expressed apprehension of threat on her life by her father-in-law (the informant) and brother-in-law. She expressed her desire to go to her sister's home. It is also submitted that Meera Devi, daughter-in-law of the informant is a major lady. She left her matrimonial home on her own as it is apparent from her statement. So in view of the statement of the daughter-in-law entire allegation appears to be false and concocted.



Contrary to this, learned Counsel appearing on behalf of O.P. No. 2 submits that the cognizance has been taken on the basis of statement of the witnesses at the enquiry stage as the court proceeded treating the protest petition as complaint. However he concedes that the daughter-in-law was not examined during enquiry.

Having considered the rival submissions and on perusal of the record, the Court finds that the falsity of the case lodged by the informant is apparent from the statement of his daughter-in-law recorded under Section 164 Cr.P.C. during period of investigation of this case. Her statement completely rules out her kidnapping along with her sons by the petitioner. So in the back drop of these facts and the statement of the daughter-in-law further proceeding with the case would be abuse of the process of the Court. So, entire criminal proceeding inclusive of the cognizance order dated 4.7.2014 passed in Complaint Case No. 300-C of 2014 pending in the Court of Judicial Magistrate, Sikrahana, East Champaran is hereby quashed.

The application stands allowed.

(Arun Kumar, J.)

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