

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34269 of 2014

Arising Out of P.S.Case No. -105 Year- 2013 Thana -MANJHI District- SARAN

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Deepak Kumar Pandit @ Deepak Pandit Son of Lagan Dev Pandit Residence of Village-Ghorhat Majhvalia, Police Station-Manjhi, District-Saran at Chapra.

.... Petitioner

Versus

1. The State of Bihar
2. Lukshmina Devi Wife of Ram Sevak Sah Resident of Village-Ghorhat Majhwalia, Police Station-Manjhi, District-Saran at Chapra,
3. Anjali Devi, wife of Deepak Pandol, resident of -15 Shivmandir Gali, Old Kundi Delhi-96

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Shambhu Prasad Yadav, Advocate
For the Opposite Party No.2 : Mr. Ram Janam Maharaj, Advocate
For the Opposite Party No.3 : Mr. Muneshwar Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 28-07-2017

This application under Section 482 of the Cr.P.C. has been filed to quash the order dated 14.05.2014 passed by learned Judicial Magistrate, Ist Class, Saran in G.R.No.3262 of 2013 arising out of Manjhi P.S.Case No.105 of 2013.

2. Heard both sides and perused the record.

3. It has been submitted that the Opposite Party No.3 is a major girl and she voluntarily left her house and married with this petitioner. The victim was produced before Magistrate where she disclosed her age as 22 years. The Magistrate who recorded her statement has assessed her age as 21 years. The petitioner performed



marriage at Arya Samaj Mandir at Delhi and a marriage certificate to this effect granted by Araj Samad Mandir has been produced. After marriage she has been blessed with a son and she is presently residing with her husband at Delhi. The learned Magistrate without considering all these facts has wrongly taken cognizance against the petitioners under Section 366A of the IPC and so the impugned order is fit to be quashed. The learned APP concedes to the submissions of petitioner that the victim was major on the relevant date.

4. On perusal of documents on record, I find that informant of this case is mother of the victim. In pursuance of notice she has appeared in this case. The learned counsel for the Opposite Party No.3 who is victim of this case has also appeared and stated that the victim is a major girl and she voluntarily married with this petitioner. The statement of daughter of the informant was recorded under Section 164 of the Cr.P.C. wherein she disclosed her age as 22 years. The Magistrate has assessed her age as 21 years. Her statement was recorded on 19th December, 2013, i.e., after five months of the alleged occurrence. She was produced before Medical Officer who on radiological examined has asessed the age of the girl in between 18 to 19 years. The petitioner and Opposite Party No.3 have been blessed with a child and they are residing together. They have produced birth registration certificate of their male child granted by Delhi Municipal



Corporation. None of the Opposite Parties denied the version of the petitioner. In the aforesaid facts and circumstances, the criminal prosecution of the petitioner appears to be abuse of the process of the Court. His prosecution in face of above material cannot be sustained. Accordingly, the order dated 14.05.2014 passed by Judicial Magistrate taking cognizance under section 366A IPC is quashed.

5. This criminal miscellaneous application is accordingly allowed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	01.08.2017
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