

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 45024 of 2013

Arising out of P.S. Case No. - null Year - null Thana - null District – VAISHALI (HAJIPUR)

=====

Rameshwar Prasad Singh, Son of Late Ramashish Singh, Resident of Village -
Majhauri, P.S. - Vaishali (Belsar O.P.), District - Vaishali

.... Petitioner

Versus

1. The State of Bihar
2. Dharamshila Sinha, Wife of Mahesh Prasad Singh Madhup, Resident of Village
- Majhauri, P.S. - Vaishali (Belsar O.P.), District - Vaishali

.... Opposite Parties

=====

Appearance :

For the Petitioner : Mr. Surendra Kishore Thakur, Advocate

For the Opposite Parties : Mr. Ashutosh Kumar Jha, Advocate
Mr. Raghvanand, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 23-01-2017

Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State as well as learned counsel for
the complainant.

2. This application under Section 482 Cr.P.C. for quashment
of order dated 13.03.2013 passed in Complaint Case No. 1178 of 2012
(Tr. No. 4505 of 2012) whereby the petitioner and other named co-
accused have been ordered to face trial for offence under Section 363
Indian Penal Code.

3. Submission of the petitioner is that, initially, Complaint
Case No. 650 of 2011 was filed by the opposite party no. 2 Dharamshila
Sinha against five named accused persons including the petitioner. The
complaint petition was sent for registration of police case under Section
156(3) Cr.P.C. and investigation. The same was registered as Vaishali
Police Station Case No. 127 of 2011 under Sections 364, 367 and 504/34



of the Indian Penal Code. After investigation, the police submitted final form vide Final Form No. 217 of 2011 as a matter of civil dispute.

4. The protest petition already filed in the aforesaid case was treated as complaint case. After inquiry under Section 202 Cr.P.C., the impugned order was passed which is under challenge. According to the complaint petition, the petitioner and others named accused are agnates of the complainant. On the alleged date of occurrence, co-accused Niraj Kumar induced to Satish Kumar, aged about 18 years, the son of the informant to go with him to celebrate Holi. Subsequently, Satish Kumar did not return then the complainant inquired about her son. The accused persons including the petitioner in a mood of threat asked them to execute a registered sale deed in respect of the adjoining land as condition precedent for release of Satish Kumar. Later on, Satish Kumar was left by the miscreants. The petitioner also lodged a case against the prosecution side.

5. Submission of the petitioner is that the false case has been lodged, just to pressurize, due to land dispute between the parties. The learned Magistrate has assessed the age of the victim boy Satish Kumar as 21 years and victim has disclosed his age as 20 years. Therefore, no case of kidnapping is, prima facie, made out.

6. On the other hand, learned counsel for the complainant submits that the victim has been examined as witness no. 2, during inquiry, under Section 202 Cr.P.C. besides other witnesses. The victim has clearly stated that accused Niraj Kumar induced him to go with him to



celebrate Holi. However, at Muzaffarpur, he was administered some stuifying thing causing unconsciousness and when Satish Kumar gain consciousness he found himself locked in a room where he was being served with meal and was kept thereat for months. The complainant has stated on oath that this petitioner had asked for execution of the registered sale deed as condition precedent for release of Satish Kumar from captivity. Other witnesses have also supported the allegation of abduction of Satish Kumar, just to pressurize, for execution of the sale deed.

7. After hearing the parties, I am of the view that, at this stage, meticulous appreciation of evidence is not permissible. The court below shall examine, at the stage of framing of the charge, as to which offences are made out, without being prejudiced by the order of issuance of process. The probable defence, alleged above, cannot be looked into at this stage. Hence, I do not find any merit in this application, accordingly, it stands dismissed.

(Birendra Kumar, J)

Kundan

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

