

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.46992 of 2014**

Arising Out of PS. Case No.-119 Year-2013 Thana- SALIMPUR District- Patna

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Rakesh Kumar @ Anil Paswan S/o Ramlekh Paswan Resident of Village  
Karauta, Police Station Salimpur, District Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Sanjay Kumar Verma

For the Opposite Party/s : Mr. S.EHETESHMUDDIN(APP)

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR**

**ORAL JUDGMENT**

**Date : 15-11-2017**

Heard learned counsel for the parties.

This petition under Section 482 of the Cr.P.C has been filed for quashing the order dated 15.11.2013 passed by Judicial Magistrate, 1st Class, Patna in Salimpur P.S. Case No. 119 of 2013, by which cognizance has been taken against the petitioner for the offence punishable under section 363 and 366 of the Indian Penal Code.

Briefly stated, the facts of the case is that FIR was lodged by one Bachhu Sharma, the informant before Salimpur P.S. stating therein that his daughter namely Juhi Kumari aged about 19 years used to go to Bakhtiarpur for attending coaching classes and as usual on 04.09.2013, she left the house at 8:30 am and proceeded for the coaching institute but till next date i.e. on



05.09.2013, she did not return back and thus the family members started searching her. During the course of searching it came to their knowledge that one Tinku Paswan alongwith sunil Paswan, Bhado Ram and three others belonging to the same village but of tola Karota, abducted her daughter Juhi Kumari, while she was on way to coaching classes. The informant had lodged a false case being fully aware of the fact that his daughter is having love affair with Tinku Paswan who happens to be the brother of the petitioner and instead of having full knowledge of said fact not only Tinku Paswan but the entire family has been roped in this false and concocted case. The informant daughter having eloped with said Tinku paswan appeared before the marriage Registrar and got tied in nuptial knot with Tinku Paswan and certificate of marriage was issued by the marriage Registrar. Tinku Paswan brother of the petitioner and Juhi Kumari, both were major being of 21 years and 19 years of age and were eligible for the marriage and thereafter their marriage was also solemnized as per hindu vedic rites and customs and they are enjoying peaceful conjugal life and are blessed with a child. The petitioner was not named in the FIR but was arrested during investigation and chargesheet was submitted against him being chargesheet no. 99 of 2013



dated 13.11.2013 and further investigation was continued against named accused.

Without perusal of the police report separating his case from the named accused persons learned Magistrate in a mechanical manner took cognizance for the offence against the petitioner under Section 363, 366 read with 34 of the Indian Penal Code.

From the subsequent order of court below dated 15.11.2013, it appears that after investigation police has submitted final report no. 124 of 2013 dated 10.12.2013 as the case to be mistake of fact and has not submitted chargesheet against rest of the accused and the court below has issued notice to the informant before accepting the final form as case to be not true and mistake of fact as such continuance of present proceeding against the petitioner would amount to abuse of the process of the court. The petitioner was not named in the FIR and only because he is the brother of named accused Tinku Paswan he was arrested during investigation and police submitted chargesheet against him and his case was separated from other accused and after completion of investigation against the named accused persons and on the basis of statement made by the victim girl who is of 19 years that she had gone with



Tinku Paswan on her own sweetwill and volition and have solmenized marriage as they are major, no chargesheet has been submitted against those accused.

In the facts and circumstances of the present case, continuance of present proceeding against the petitioner will amount to an abuse of the process of court and in order to secure the ends of justice, the order taking cognizance dated 15.11.2013 against the petitioner under Sections 363 and 366 of the Indian Penal Code in Salimpur P.S. Case No. 119 of 2013 as well as whole proceeding arising out of said FIR is quashed, as far as same relates to the petitioner.

The petition is allowed.

**(S. Kumar, J)**

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