

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 632 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

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Bachcha Singh, Son of Jagat Narayan Singh, Resident at Raj Guru Chowk, Purani
Gudari, Ward No. 09, P.S. Bettiah Town (Kalibag O.P), District West Champaran.

.... Petitioner

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna
3. The Secretary, Bihar School Examination Board Bihar, Patna.
4. The Superintendent of Police, Bettiah, West Champaran.
5. The Sub-Divisional Police Officer, Bettiah, West Champaran.
6. Mr. Sunil Kumar Singh, Assistant Sub-Inspector Cum Investigating Officer,
Bettiah Town, P.S. Bettiah, West Champaran.
7. The Officer In-charge of Bettiah Town Police Station, Bettiah West
Champaran.
8. The Head Master, Rajkiya Upgraded High School, Baitapur, Narkatiyaganj,
P.S. Shikarpur, District West Champaran.
9. Soni Kumari @ Soni Kumari Rai, Daughter of Arvind Kumar @ Arvind Kumar
Rai, Resident of Village – Mohalla - I.T.I. Colony, P.S Bettiah (Mufassil),
Disrict West Champaran.

.... Respondents

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Appearance :

For the Petitioner	: Mr. Bimlesh Kumar Pandey, Advocate Mr. Pramod Kumar Singh, Advocate
For the State	: Mr. Amit Kumar Jha, A.C. to A.A.G. 4
For the B.S.E.B.	: Mrs. Binita Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 02-08-2017

Heard learned counsels for the parties.

2. The petitioner is an accused in connection with
Bettiah Town (Kalibag O.P.) P.S. Case No. 785 of 2015 lodged by
respondent no. 9, Soni Kumari. Soni Kumari has alleged that on



27.11.2015, the petitioner, who was her tutor, called her to his house for extra tutorial and, allegedly, committed act of sexual harassment against her. For the aforesaid occurrence, the FIR was registered on 04.12.2015 for offences under Sections 341, 323, 376, 511, 506, 291 of the Indian Penal Code and under Section 8 of the POSCO Act as the victim had disclosed her age as 16 years in the FIR. After completion of the investigation, the police submitted charge-sheet against the petitioner vide charge sheet no. 154 of 2016 for offences under Sections 341, 323, 376, 511, 506, 292 of the Indian Penal Code as well as under Sections 8, 9, 11, 12, 13 of the POSCO Act.

3. The petitioner has invoked the writ jurisdiction of this Court for quashment of the charge sheet aforesaid as well as order dated 09.05.2016 passed by the learned court below whereby cognizance has been, accordingly, taken.

4. The contention of the petitioner is that completely false and fabricated FIR has been lodged, just to pressurize the petitioner in earlier criminal cases lodged by the petitioner against the informant and her other family members, as such, the prosecution of the petitioner would be an abuse of process of the court. Learned counsel has drawn attention of the Court to the FIR of Bettiah Town (Kalibag) P.S. Case No. 535 of 2015 lodged by the petitioner on 13.08.2015 under Sections 341, 323 and 379/34 of the Indian Penal



Code against the informant of this case and others and Bettiah Town (Kalibag O.P.) P.S. Case No. 782 of 2015 registered on 02.12.2015 of the occurrence dated 28.11.2015 wherein allegation is that the informant of this case and her other family members came to the coaching institute of the informant, committed abuse and assault etc. Further contention of the petitioner is that, in fact, during investigation, it was not brought on the record as to whether the victim-informant was a minor or not. Unless it is established that the victim was a child within the meaning of Protection of Children from Sexual Offences Act, 2012 the offence cannot be established.

5. After hearing the parties, in my considered view, the averment in the FIR disclosing commission of a cognizable offence, the material collected during investigation and the impugned order cannot be brushed aside at the threshold only for the reason that earlier criminal cases were lodged by the petitioner against the informant and others. That may be a plausible defence at the trial and the issue can be raised by the petitioner at the time of hearing on charge.

6. Therefore, this writ application has got no merit. Accordingly, it stands disposed of as devoid of merit.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	04.08.2017
Transmission Date	04.08.2017

