

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23110 of 2015

Arising Out of PS.Case No. -2278 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Ram Binay Singh @ Binay Singh S/o Bindeshwar Singh Resident of
Suari Sahpur, P.S. Baniapur, District Saran Petitioner

Versus

1. The State of Biha

2. Puja Singh @ Puja Kumari, D/o Sarvajeet Singh, Resident of Jaganpura,
Mohalla Ward No. 32, P.S. Ram Krishna Nagar, District Patna

.... Opposite Parties

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With

Criminal Miscellaneous No.24177 of 2015

Arising Out of PS.Case No. -2278 Year- 2012 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Uttam Narain Singh, son of Bindeshwar Singh

2. Prabhawati Devi, wife of Uttam Narain Singh Both, residents of Suari
sahpur, P.S.- Baniapur, District- saran Petitioner

Versus

1. The State of Bihar

2. Puja Singh @ Puja Kumari, daughter of Sarvajeet Singh, resident of
Jaganpura, Mohalla Ward No. 32, P.S. Ram Krishna Nagar, District Patna

.... Opposite Parties

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Appearance :

(In Cr.Misc. No.23110 of 2015)

For the Petitioner : M/S Sandeep Kumar & Ajit Kumar, Adv.

For the State : Mr. Narsingh Tanti, APP

For the complainant : Mr. Sudhir Kumar, Adv.

(In Cr.Misc. No.24177 of 2015)

For the Petitioners : M/S Sandeep Kumar & Ajit Kumar, Adv.

For the State : Mr. Murlidhar, APP

For the complainant : Mr. Sudhir Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 16-02-2017

These are applications under Section 482 of the Criminal Procedure Code for quashing the order, dated 08.04.2015, passed by Ad Hoc Additional Sessions Judge, IV, Patna, in Sessions Trial No. 669 of 2014 arising out of Complaint Case No. 2278 (C) of 2012 whereby the prayer of the petitioners to discharge under Section 227 of the Criminal Procedure Code has been refused.



2. Prayer is on the ground that no offence is made out against the petitioners on bare perusal of the complaint petition and most of the allegations are general and vague one.

3. Heard the parties.

4. According to complaint petition (vide Complaint Case No. 2278 (C) of 2012 brought by opposite party no. 2, Puja Singh @ Puja Kumari) that complainant was a student of Class IX in Patna Central School and her date of birth is 12.01.1995. Co-accused, Brijesh Singh @ Brajesh Singh, had passed from the same school Class XII examination in the year 2010. Father of the complainant was a Caretaker in that school. Co-accused, Brajesh Singh, on several occasions, induced the complainant to marry with him, but, the complainant declined. On 17.02.2011, when the complainant was coming to school. On the way, co-accused, Brajesh Singh, forcefully abducted her on a Tata Sumo vehicle and took her to his village where the petitioners also reside. The victim was kept in the house. Thereafter, on 18.02.2011, she was taken to Thawe Temple in the district of Gopalganj, where she was forcefully married with co-accused, Brajesh Singh, and started living with Brajesh Singh as husband and wife. On 09.08.2012, the complainant was pregnant since last seven months. During this interval, co-accused, Brajesh Singh, to win the confidence of the complainant got her name tattooed on his right hand. However, when the complainant became pregnant, the accused persons started pressurizing her by demanding rupees five lakhs from her father failing which she would not be allowed to remain in the house.

5. On the aforesaid complaint, charges were ordered to be framed against all the accused under Sections 366A, 368 and 496 of the Indian Penal Code and additional charge under Section



376 of the Indian Penal Code against co-accused, Brajesh Singh.

6. Submission of the petitioners is that in fact after marriage, opposite party no. 2 was residing along with her husband in a rented house at Bhagwan Bazar. She sustained burn injury there on 27.11.2011 and her fardbeyan was recorded by the police vide Annexure 2 wherein she stated that by mistake she had sustained the injury while cooking food and nothing was alleged against the petitioners even regarding demand of any dowry by the petitioners.

7. On the other hand, learned counsel for the opposite party submits that after framing of the charge prosecution evidence is already going on, hence, at this stage no interference is required by this Court.

8. Section 366A of the Indian Penal Code provides for punishment for the offence of procuration of minor girl for illicit intercourse with another person. The said offence is apparently not made out against the petitioners. This Court is not making any comment whether the offence is made out against the accused, Brajesh Singh or not so that the trial may not prejudice.

9. Section 368 of the Indian Penal Code provides for punishment for wrongful concealing or keeping in confinement, kidnapped or abducted person. This allegation is against co-accused, Brajesh Singh, and general and vague against the petitioners.

10. Section 496 of the Indian Penal Code provides punishment for marriage ceremony fraudulently gone through without lawful marriage. There is no allegation against the petitioners to attract the aforesaid offence.

11. Apparently, no ingredients of the offence alleged is attracted against the petitioners, who are parents and uncle of



Brajesh Singh also says under Sections 366A, 368 and 496 of the Indian Penal Code. Therefore, their criminal prosecution is bad ab initio. For substantial justice criminal prosecution of the petitioners can not be allowed only for the reason that the trial is at the stage of prosecution evidence.

12. Accordingly, the impugned order and criminal prosecution against the petitioners is hereby **quashed** and the applications stand **allowed**.

(Birendra Kumar, J)

SA/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	07.03.2017
Transmission Date	07.03.2017

