

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52113 of 2013

Arising Out of PS. Case No.-91 Year-2012 Thana- AMARPUR District- Banka

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RAHUL RAJ SON OF LATE UMESH SINGH RESIDENT OF VILLAGE-
GOVINDPUR, P.S.- AMARPUR, DISTRICT- BANKA

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Jai Prakash Sah Son Of Not Known Resident Of Village- And P.S. Amarpur, District- Banka
3. Ankita Kumari @ Anku Wife Of Rahul Raj, D/O Jai Prakash Sah Resident Of Village- Govindpur, P.S.- Amarpur, District- Banka

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda

For the Opposite Party/s : Mr. KR. VIRENDRA NARAYAN (APP)

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
C.A.V. JUDGMENT

Date : 22-09-2017

Heard learned counsel for the petitioner, the State and the opposite party no. 3. Despite service of notice, opposite party no. 2 did not choose to appear.

Petitioner, by means of this application under section 482 of the Code of Criminal Procedure, has invoked the inherent jurisdiction of this Court with prayer to quash the order dated 23.05.2013, passed by Chief Judicial Magistrate, Banka in Amarpur P.S. Case No. 91 of 2012, whereby cognizance against the petitioner for the offence under sections 366A/34 of the Indian Penal Code has been taken.

Learned counsel for the petitioner submits that



petitioner and the informant's daughter were in love with each other. They wanted to marry each other. They solemnized marriage. In statement under section 164 Cr.P.C.(Annexure-2), the victim has stated she was in love with this petitioner, solemnized marriage and wants to live with this petitioner. Victim is a major girl as on medical examination (Annexure-3) her age has been found to be above 18 years. After investigation, police submitted final form (Annexure-4) finding the case to be mistake of fact. During investigation also none of the witnesses supported the prosecution case. From their wedlock a child has also born on 16.05.2013, which is evident from the Birth Certificate (Annexure-5). Learned counsel below without considering the aforesaid facts and circumstances has taken cognizance in the case in very mechanical manner.

Learned counsel appearing for the State is not in position to refute the above submissions.

Considering the facts and circumstances of the case and materials available on record, this Court finds substance in the submissions advanced by the learned counsel for the petitioner. Victim appeared in the case. In her statement in the Mediation she stated that she was in love with this petitioner, solemnized marriage on her free will and wants to live with the



petitioner. They are living as husband and wife and they do not want to proceed further in the matter. Therefore, this Court feels that continuance of the present proceedings any further would be an abuse of the process of the Court.

In view of the above, this application is allowed and the order dated 23.05.2013, passed by Chief Judicial Magistrate, Banka in Amarpur P.S. Case No. 91 of 2012, whereby cognizance against the petitioner for the offence under sections 366A/34 of the Indian Penal Code has been taken, is hereby, quashed.

(Arvind Srivastava, J)

mcv/-

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