

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27710 of 2015

Arising Out of PS.Case No. -37 Year- 2015 Thana -ARARIA District- ARRARIA

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Mithoo @ Hasnain, Son of Md. Siddik, resident of village - Bangama, P.S. +
District - Araria.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bindeshwar Kumar, Advocate.

For the Opposite Party/s : Ms. Anita Kumari Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 19-02-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the First Information Report of Araria P.S. Case No. 37 of 2015 dated 26.1.2015, G.R. No. 237 of 2015 registered for the offence under Sections 363, 366(A) and 34 of the Indian Penal Code.

2. Heard learned counsel for the petitioner and learned counsel for the State.

3. Learned counsel for the petitioner has submitted that initially petition was filed on behalf of the petitioner for quashing the First Information Report of Araria P.S. Case No. 37 of 2015 but police during pendency of the petition, submitted charge sheet against the petitioner and other accused persons as named in the charge sheet



for the offence under Section 366A/34 of the Indian Penal Code which has been enclosed as Annexure-4 of the Interlocutory application No. 2639 of 2017. The court below has taken cognizance on the basis of charge sheet submitted against the petitioner and other accused persons for the offence under Sections 363 and 366A/34 of the Indian Penal Code by order dated 7.7.2015 passed in Araria P.S. Case No. 37 of 2015.

4. Learned counsel for the petitioner has submitted that during pendency of the case in the court below, the victim girl has appeared and given her statement under Section 164 Cr. P.C. wherein she has stated that she has voluntarily married with Guddu @ Gufran @ Gufran Alam and she is living with him as wife and husband in Delhi. She has 9 months old son from the said marriage. It has further been submitted that the victim girl has mentioned in paragraph-8 of the main petition that after performing marriage with Guddu @ Gufran @ Gufran Alam, the victim girl and Guddu @ Gufran felt fear and they both moved the Hon'ble Delhi High Court and filed a Cr. Writ petition bearing WP (CRL) 705 of 2015 and the Hon'ble Delhi High Court directed to SHO Police Station, Jaitpur, New Delhi, to ensure Police protection to the petitioner after assessing the threat perception. The victim girl and Guddu @ Gufran @ Gufran Alam have stated in the aforesaid petition that they are



adults and have voluntarily performed marriage out of their own sweet will, but the family members opposed the marriage between them and have threatened the couple with dire consequences. Moreover, there is no allegation of any overt act against this petitioner in the statement of victim girl recorded under Section 164 Cr. P.C.

5. There is general and omnibus allegation in the written report that this petitioner along with Guddu @ Gufran @ Gufran Alam and other persons have kidnapped the minor daughter of the informant for the purpose of marriage.

6. Therefore, the impugned order of cognizance dated 7.7.2015 passed by the learned Chief Judicial Magistrate, Araria, in Araria P.S. Case No. 37 of 2015 along with the entire Criminal Proceedings against the petitioner is hereby quashed.

7. This Criminal Miscellaneous application is accordingly allowed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28/02/2018
Transmission Date	28/02/2018

