

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50793 of 2013

Arising Out of PS.Case No. -7 Year- 2012 Thana -FALKAHA District- KATI HAR

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1. Chhotu Mandal @ Chandan @ Chandan Mandal, son of late Surendra Mandal,
resident of village- Haseli, P.S.- Falka, District- Katihar

.... Petitioner/s

Versus

1. The State of Bihar,
2. Md. Shamim Ansari, son of Dukah Ansari, resident of village- Haseli, P.S.-
Falka, District- Katihar
3. Bulbul Khatoon, daughter of Md. Shamim Ansari, wife of Chhotu Mandal @
Chandan, resident of village- Haseli, P.S.- Falka, District- Katihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bimal Kumar, Advocate
Mr. Birendra Kumar, Advocate
For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 03-04-2018

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 30.09.2013 passed by the Additional Sessions Judge, II, Katihar, in Sessions Trial No.193 of 2013 arising out of Falka P.S. Case No.07 of 2012 by which he has rejected the petition filed by the petitioner for his discharge.

Instant case was admitted by order dated 16.09.2016. Entire lower Court records along with case diary have been received.

From perusal of the case diary, it appears that police after investigation did not sent up other accused persons as named in the written report for trial. The police submitted charge-sheet only



against this petitioner for the offence under Section(s) 366-A Indian Penal Code.

The victim girl during pendency of this application has appeared in the Court and has given her statement under Section 164 Cr. P.C., which is enclosed as Anenxure-2 and is also available in the lower court records. The Court has assessed the age of the victim girl as 18 years. She has stated that she has performed marriage with this petitioner on 07.01.2012 voluntarily in Delhi. She wants to live with her husband.

Notice was issued to the informant, who is father of the victim girl, as well as victim girl. Father of the victim girl i.e. informant has not appeared.

Counsel for the petitioner submits that after performing marriage victim is living with the petitioner and, therefore, he is representing the victim girl also. The Court below has rejected the petition for discharge mainly on the ground that in the school register date of birth of the victim is recorded as 03.01.1996, but the victim girl herself has given statement under Section 164 Cr. P. C., wherein, she has stated her age as 18 years. The Court has also assessed her age as 18 years. Counsel for the petitioner has further submitted that the victim girl has performed marriage and is living happily with him as husband and wife.



In such circumstances, this Court is of the view that continuance of the criminal proceeding against the petitioner will be mere harassment and abuse of process of law.

Accordingly, impugned order dated 30.09.2013 passed by the Additional Sessions Judge, II, Katihar, in Sessions Trial No.193 of 2013 arising out of Falka P.S. Case No.07 of 2012 along with entire criminal proceeding against the petitioner is hereby quashed.

This application is, accordingly, **allowed**.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11-04-2018
Transmission Date	11-04-2018

