

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19947 of 2014

Arising Out of PS.Case No. -74 Year- 2013 Thana -HUSAINGANJ District- SIWAN

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Shashi Nandan Kumar @ Deen Bandhu Yadav Son of Sri Jagdish Yadav, Resident
of village- Deipur, P.S. Hussainganj, District Siwan

.... Petitioner

Versus

1. The State of Bihar
2. Osihar Yadav Son of Indradeo Yadav Resident of village- Saraiya, P.S.
Hussainganj, District Siwan

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Ramchandra Sahni, Advocate
For the State	:	Mr. Ram Sewak Chaudhary, APP
For O.P. No.2	:	Mr. Rakesh Kumar Srivastava, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 15-01-2018

Heard learned counsel for the parties.

2. The petitioner seeks quashing of the cognizance order dated 15.01.2014, passed by learned Chief Judicial Magistrate, Siwan in Hussainganj P.S. Case No.74 of 2013 thereby taking cognizance of the offence under Section 366(A) of the Indian Penal Code.

3. A brief fact giving rise to the case is that on 16.03.2013 at 8.30 A.M. the informant's daughter Manju Kumari, 17 years of age was kidnapped by the accused persons from outside of the house for the purpose of marriage. It is alleged that prior to the present occurrence, one of the accused Rajeev Ranjan Yadav used to give allurement to his daughter for marriage.

4. Learned counsel for the petitioner submits that the daughter of the informant has married the petitioner after elopement



as she was in love relationship with him and her parents wanted to marry her with another person. The girl was major, above 18 years of age, even the Medical Board assessed her age 17 to 18 years and the educational certificate indicates her of 19 years so finding her major the Chief Judicial Magistrate, Siwan declaring her major released her with a direction that being a major person she may go to the place as per her wish and now both are married and there are two children out of the wedlock.

5. Learned counsel appearing on behalf of opposite party no.2, the informant concedes that the informant's daughter has married with the petitioner and living together.

6. Having considered the rival submissions and on perusal of the records, the Court finds that at the time of the alleged occurrence the informant's daughter was major as held by learned Chief Judicial Magistrate, Siwan by order dated 04.05.2013. It is also admitted position that both are married and living together as husband and wife. Section 366(A) of the Indian Penal Code reads as such:

“366A. Procurement of minor girl.—Whoever, by any means whatsoever, induces any minor girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.”

7. In order to attract the offence under Section 366A of



the Indian Penal Code, procurement of minor girl is mandatory. If any one induces any minor girl below 18 years of age in order to go from one place to another or to do any act with intent that the girl may be forced or seduced to illicit intercourse with another person only then *prima facie* this offence is attracted. However, in the present case the informant's daughter is major and also there is absence of inducement by the petitioner as it is a case of elopement, both were in love relationship and eloped and now married and living together as also evident from girl statement recorded under Section 164 Cr.P.C., so *prima facie* no ingredients of Section 366A of the Indian Penal Code in the backdrop of the facts of the case is made out, so continuation of the proceeding against the petitioner would be abuse of the process of the Court, so the entire criminal proceeding inclusive of the cognizance order dated 15.01.2014, passed in Hussainganj P.S. Case No.74 of 2013 pending in the court of learned Chief Judicial Magistrate, Siwan is hereby quashed.

8. The quashing application stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.01.2018
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