

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.59759 of 2018

Arising Out of PS. Case No.-440 Year-2017 Thana- DARBHANGA COMPLAINT CASE
District- Darbhanga

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MD. MATIN @ MD. MOTIN, S/o Nurul Hoda, R/o Vill.- Baligaon, P.S.-
Baheri, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Rojani Khatoon, W/o Md. Daud, R/o Vill.- Gaiwal, P.S.- Baheri, District-
Darbhanga.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Jha, Adv.

For the Opposite Party/s : Sri Kumar Ranjit Ranjan, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 28-09-2018 Heard learned counsel for the petitioner and learned APP
for the State.

The petitioner is apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Section 376 of the Indian Penal Code.

The prosecution case got initiated with the filing of complaint by Rojani Khatoon with accusation under Section 376 of the I.P.C. to the effect that on 09.04.2017, the complainant was going to her village Baligaon. In the meantime, at 6/7 P.M., few persons came on motorcycle and surrounded her. The accused persons tore the blouse of the informant and ravished



her causing injury on the back, arm, breast and buttock of the complainant. On alarm being raised, the witnesses came, upon which the accused persons escaped from the scene. The accused persons threatened the complainant of dire consequences while going away. The complainant was prevented by the accused persons in giving information to the police, somehow the complainant submitted the written report on 10.04.2017 to the Women Police Station, but the same was not accepted. Ultimately, she filed complaint before the learned CJM, who after examination of the complainant on solemn affirmation and on the statement of the enquiry witnesses directed for issuance of process after finding a prima facie case under Sections 323, 354 and 354A of the I.P.C.

It is submitted by learned counsel for the petitioner that the accusation levelled in the complaint petition did not satisfy the learned Magistrate to find a prima facie case under Section 376 of the I.P.C. For the occurrence of 9.04.2017, the complaint was filed on 11.04.2017. The complaint petition does not contain any medical report, as it appears from the record that the complainant has never been examined. Moreover, the petitioner was a witness in a case filed against the complainant being Baheri P.S. Case No.52 of 2017, registered under Section 498A



of the I.P.C. and as a retaliatory measure, the present complaint has been filed. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

It is submitted by learned APP for the State that the learned Magistrate after taking cognizance directed for issuance of process against the petitioner.

Considering the delayed filing of the complaint and the accusation being not corroborated by the medical opinion, coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Darbhanga, in connection with CR. No. 440 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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