

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.9670 of 2017

Arising Out of PS.Case No. -72 Year- 2016 Thana -BETTIAH CITY District-
WESTCHAMPARAN(BETTIAH)

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Sharad Kumar son of Late Hansraj Ghi, resident of Mohalla- Kamalnath Nagar,
P.S.- Bettiah Town, District- West Champaran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar No.2, Advocate

For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 06-03-2018

This application under Section 482 of the Code of Criminal Procedure (for short 'the Cr.P.C.') has been filed by the petitioner for quashing the order dated 19.01.2017 passed in Sessions Trial No.712 of 2016 by the learned Sessions Judge, West Champaran, Bettiah, by which the petition filed under Section 227 of the Cr.P.C. for discharge by the petitioner has been dismissed.

2. Initially a complaint was filed which was referred to the police for investigation pursuant to which Bettiah Town P.S. Case No.72 of 2016 dated 04.02.2016 was registered for the offences punishable under Sections 376 and 420 of the Indian Penal Code (for short 'the IPC').

3. It has been alleged by the informant that on the pretext of



providing loan to the complainant from the bank, the petitioner sexually exploited her continuously for six months. Subsequently, he started demanding rupees twenty five thousand from her.

4. Though the informant supported the allegation made in the complaint during investigation, the police submitted final report holding the accusation to be false, but the learned Magistrate finding sufficient material in the case diary, differed with the police report and took cognizance of the offences punishable under Sections 406 and 420 of the IPC. At the stage of framing of charge, an application under Section 227 of the Cr.P.C. was filed by the petitioner which has been dismissed vide impugned order dated 19.01.2017 by the learned Sessions Judge.

5. It is submitted by the learned counsel for the petitioner that save and except the complainant, no witness came forward during investigation to support the allegation made by the complainant. Hence, the order taking cognizance by the Court of Magistrate and dismissing the petition filed under Section 227 of the Cr.P.C. by the sessions court are bad in law.

6. On the other hand, learned counsel for the State submitted that from the order impugned passed by the court below, it would be evident that on perusal of the FIR, the materials collected during investigation including statements of the witnesses recorded



under Section 161(3) of the Cr.P.C., the learned Sessions Judge has found sufficient ground to proceed against the petitioner.

7. I have heard learned counsel for the parties and perused the record.

8. There is specific allegation against the petitioner in the complaint that he sexually exploited the victim. The complainant has supported her allegation in course of investigation. From the order impugned also it would transpire that sufficient materials were found against the petitioner to put him on trial. The law in this regard is well settled that in case of rape merely on the evidence of prosecutrix if it is found wholly reliable an accused may be convicted. Hence, I see no illegality in the order passed by the court below.

9. In that view of the matter, I see no merit in the present application. It is dismissed accordingly.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	11.03.2018
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