

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.75439 of 2018

Arising Out of PS. Case No.-33 Year-2018 Thana- MAHILA P.S. District- Purnia

Shams Tabrez S/o Quasim Master Resident of Village-Chaura Bhita, P.S.-
Amour District- Purnia.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shabbir Ahmad

For the Opposite Party/s : Mr.Smt. Meena Singh

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 21-12-2018 Heard both sides.

The petitioner apprehends his arrest in Mahila P.S.
case No. 33 of 2018 registered under Section 376, 313, 420 of
the Indian Penal Code.

The prosecutrix alleged that petitioner used to come to
her house to impart tuition to her brother and sister. On
05.04.2009 when her family members were out the petitioner
came to her house at 10 in the night and committed rape with
her. The prosecutrix lodged Complaint case No. 2574 of 2019
but on assurance of the petitioner to marry with her she did not
pursue the complaint case. Consequently, the complaint case
was dismissed. The prosecutrix further alleged that on the
pretext of marriage the petitioner continued to have sexual
relation with her and she became pregnant thrice but all the time



the petitioner got her aborted. The petitioner refused to marry with her after getting service of teacher thereafter the prosecutrix lodged the case.

The learned counsel for the petitioner submits that from perusal of the written complaint of the prosecutrix itself, it appears that the prosecutrix is in living relation with petitioner although the petitioner denied to have any relation with the prosecutrix. The prosecutrix is a major and a consenting party. In this view of the fact that prosecutrix is living with the petitioner in live in relation no offence under Section 376 of the IPC is made out.

The learned counsel for the prosecutrix, however, opposed the prayer and submitted that the petitioner cheated the prosecutrix.

Having considered the facts that on the face of contents of the allegation made by the prosecutrix, it appears that prosecutrix being a major lived in living relation with the petitioner and when the petitioner refused to marry the prosecutrix lodged this case the petitioner, above named, in the event of his arrest or surrender before the learned court below within a period of four weeks from the date of receipt/production of a copy of this order is directed to be enlarged on



bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Purnea in connection with Mahila P.S. Case No.33 of 2018, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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