

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.505 of 2019

Arising Out of PS. Case No.-225 Year-2015 Thana- SONEPUR District- Saran

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Gautam Kumar Son of Shri Ramlal Rai, Resident of Village-Parwejabad
Diyara, P.S.-Sonepur ,Distict-Saran at Chapra

... .. Petitioner/s

Versus

1. The State of Bihar, through the Commissioner, Home Department, Govt. of Bihar, Patna
2. The District Magistrate, Saran at Chapra
3. The Superintendent of Police, Saran at Chapra
4. The S.H.O., Sonepur Police Station, Saran at Chapra
5. The Investigating Officer, Sonepur Police Station Case No. 225 of 2015, District-Saran at Chapra
6. Komal Kumari Daughter of Manoj Tiwari Resident of Village-Prawegavad
Diyara, P.S.-Sonepur, District - Saran

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Yogesh Chandra Verma, Sr.Advocate
	:	Mr. Javed Aslam, Advocate
For the Respondent/s	:	Mr.Sheo Shankar Prasad, SC-8
		Ms. Ruchika Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 01-04-2019

Heard Mr. Yogesh Chandra Verma, learned Senior
Advocate for the petitioner and Mr. Sheo Shankar Prasad
learned Standing Counsel-VIII for the State.

2. This application under Article 226 of the



Constitution of India has been filed by the petitioner for quashing the First Information Report (for short 'FIR') of Sonapur P.S. Case No. 225 of 2015 registered under Sections 366A and 363/34 of the Indian Penal Code (for short 'IPC').

3. Learned counsel for the petitioner submitted that even on admitted facts, as alleged in the FIR, no offence under Section 366A of the IPC would be made out. There is no allegation in the FIR that the victim was induced to go from any place or to do any act with intent that she may be forced or seduced to illicit intercourse with another person. In absence of the allegation of inducement or to go any place or to do any Act with intent that she may be forced to illicit intercourse with another person, the ingredients of Section 366A of the IPC would not be attracted. He further contended that the parties have amicably settled their dispute outside the court. Hence, no useful purpose would be served by allowing the investigation to be continued.

4. Per contra, learned counsel appearing for the State submitted that from the allegations made in the FIR, a cognizable offence is clearly attracted. As far as the ingredients of the provision prescribed under Section 366A of the IPC are concerned, the same would be looked into by the court at the



stage of framing of charge. He contended that to hold investigation into a cognizable offence is the statutory right of the police. In case the ingredients of a cognizable offence are attracted, an FIR cannot be quashed. He further contended that the bona fide of the compromise is not known. The case is still under investigation. The petitioner is absconding in spite of his prayer for anticipatory bail having been refused. On the basis of these pleas, no case for interdicting the FIR at this stage is made out.

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

6. The FIR has been instituted on the basis of the written report submitted by the victim, a minor girl aged about 15 years on 08.06.2015, to the officer-in-charge, Sonepur wherein she has stated that while she was coming back to her home at about 7:00 a.m, as the school was closed along with her sister and when she reached near the field of Harishankar Singh, she saw the petitioner and one Gautam Kumar coming on a car. They forcibly lifted her inside the vehicle. When she raised hue and cry and her sister disclosed about the incident to her family members and they put pressure upon the family members of the accused persons, she was released near Bakhri Bazar.



7. The allegation of forcible abduction would certainly make out an offence under Section 363 of the IPC which is not only non-compoundable but also a cognizable offence. Hence, the police committed no illegality in instituting the FIR on the basis of the written report submitted by the complainant. As far as the plea taken by Mr. Yogesh Chandra Verma, learned Senior Advocate for the petitioner that the admitted facts of the case would not attract the ingredients of Section 366A of the IPC is concerned, the same would be of no consequence at this Stage. The issue as to whether a particular offence is made out or not is to be seen by the court concerned at the stage of taking cognizance of an offence or at the stage of framing of charge. So far as the plea taken by the petitioner regarding compounding of the offence is concerned, as stated above, the offence alleged is not compoundable in nature. Moreover, the plea of compromise has to be taken first before the court below. In the instant case, the application for grant of pre-arrest bail of the petitioner has already been rejected by the court below as well as by this court. The police have already taken steps for declaring him absconder. Till date he has not appeared either before the Court or before the police. In these background of the facts, the bona fide of the compromise itself



is doubtful.

8. In view of the discussions made above, the application is dismissed.

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

AFR/NAFR	NAFR
CAV DATE	NA
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