

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12616 of 2015

Arising Out of PS. Case No.-118 Year-2010 Thana- BARHARIA District- Siwan

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|---|-------------------------|
| 1. Bachcha Mian @ Bacha Mia, Son of Late Ainul Hoda @ Ainul Mian
2. Ali Imam, Son of Late Ainul Hoda @ Ainul Mian
3. Firoz Alam @ Firoz Mian @ Firoz, Son of Late Maneela Mian, All Residents of village - Lakari Khurd (Dargah), Police Station - Barharia, District - Siwan | Petitioner/s |
| Versus | |
| 1. The State of Bihar
2. Birendra Singh, Son of Late Shiv Sharan Singh, Resident of village - Lakari Khurd, Police Station - Barharia, District - Siwan | Opposite Party/s |
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Appearance :

For the Petitioner/s :	Mr.Bijay Prakash Singh
For the Opposite Party/s :	Mr.Rana Randhir Singhapp

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 01-07-2019

Heard learned counsel for the parties.

2. This application is, under Section 482 Cr.P.C., for quashing the order dated 02.12.2014 passed by the learned 5th Additional Sessions Judge, Siwan in Sessions Trial No. 447 of 2012 arising out of Barharia P.S. Case No. 118 of 2010 whereby the learned trial Judge has refused the prayer of the petitioners for discharge.

3. Petitioners are accused in connection with Barharia P.S. Case No. 118 of 2010 registered on the written report of opposite party no. 2 Birendra Singh. According to First Information Report, the petitioners and others kidnapped to the



minor daughter of the informant. The petitioners filed a petition for discharge under Section 227 Cr.P.C. on the ground that the victim in her statement under Section 164 Cr.P.C. has not stated that she was kidnapped by any one, rather she stated that she had love affairs with Md. Afroz and she had voluntarily married with Md. Afroz.

4. The conflicting material coming during investigation, for and against, the prosecution case cannot be taken into consideration for discharge, rather the same can be considered during trial. The informant and other eyewitnesses cannot be disbelieved at this stage.

5. Accordingly, it is held that there is no infirmity with the impugned order and no merit with this application. Accordingly, it stands dismissed.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
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