

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12689 of 2015

Arising Out of PS. Case No.-223 Year-2013 Thana- DARIYAPUR District- Saran

Raghubir Kumar Singh, Son of Late Gobardhan Singh, Resident of Village
Mithapur, P.S. Garkha, District - Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Tiwary, Advocate

For the Opposite Party/s : Mr. R. B. Rai Raman, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 30-07-2019

Heard learned counsel for the parties.

2. Petitioner is an accused in connection with Dariyapur P.S.

Case No. 223 of 2013 corresponding with Sessions Trial No. 204 of 2014 pending before the Court of learned 10th Additional Sessions Judge, Saran at Chapra. By the impugned order dated 15.01.2015 prayer of the petitioner for discharge has been refused.

3. According to FIR, the minor daughter of the informant had gone to market, however, she did not return. On search, the informant came to know that the petitioner had forcefully taken the victim on his motorcycle. Some of the witnesses have supported the allegation of kidnapping by the petitioner. However, the victim-girl, in her statement, under Section 164 Cr.P.C., stated that she had voluntarily gone with the petitioner and was in physical relation with the petitioner. However, she expressed her desire to go with the parents. The medical



report reveals that the Doctor has found the age of the victim in between 16-17 years.

4. Submission of the learned counsel for the petitioner is that after statement of the victim-girl, under Section 164 Cr.P.C., there is no scope for conviction of the petitioner. Hence, continuance of the criminal proceeding is abuse of the process of the Court.

5. On the basis of the material available in the case diary, the best which can be argued is that two stories regarding the prosecution case has come up during investigation of the case. Some of the witnesses have stated that the victim was kidnapped, whereas the victim stated, in her statement, under Section 164 Cr.P.C., that she had gone voluntarily with the petitioner.

6. In such situation, the benefit of doubt can be given only after trial and this is not a stage to disbelieve one part of the prosecution evidence to record discharge of the petitioner. Discharge is permissible only when, even if the entire evidence is accepted in toto no prima facie offence is disclosed against the petitioner.

7. Hence, this application has got no merit. Accordingly, it stands dismissed.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
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