

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1199 of 2017

Arising Out of PS. Case No.-1953 Year-2013 Thana- COMPLAINT CASE District- Banka *

1. Asha Devi @ Asha Kumari Wife of Pranjit Kumar, D/o Rajesh Paswan
2. Rita Devi Wife of Rajesh Paswan
3. Rajesh Paswan @ Rajesh Kumar Son of Late Prabhu Paswan
4. Raushan Kumar, Son of Rajesh Paswan
5. Niraj Kumar, Son of Rajesh Paswan All resident of Babutola, Ward No. 8, P.S. and District Banka

... .. Petitioner/s

Versus

1. State Of Bihar
2. Pranjit Kumar Son of Chakradhar Singh Resident of Village-Katharia, P.S. Shambhuganj, District Banka

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shree Niwas Singh, Adv

For the Opposite Party/s : Mr. Shailendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

5 15-03-2019 Heard learned counsel for the petitioners, learned counsel for the OP No.2 as well as learned APP.

2. In order to properly appreciate the lis, whatever facts have been gathered after perceiving submissions having been made on behalf of the rival parties, as well as different annexures, the victim, Asha Devi was kidnapped and for that, on the Fardbeyan of Rita Devi (Petitioner No.2), the mother of Asha Devi, Banka PS Case No. 193/2011 was registered on 18.06.2011 under Section 366, 366A, 34 of the IPC.

3. The activity whatsoever been relating to the



aforesaid case after appearance of the victim by way of statement under Section 164 CrPC is out of the record though, it has been submitted at the end of learned counsel for the OP No.2, that she has supported the defence case that she being a major married with OP No.2. The outcome is also not known whether the police report has been submitted in accordance with Section 173 CrPC or not, as yet.

4. It is further evident that the aforesaid Asha Devi herself filed written report and on the basis thereof, Banka Mahila PS Case No. 22/2012 (15.10.2012) was registered against OP No.2 and others whereunder she had detailed the event right from the date of her kidnapping and further, OP No.2 being married since before. One year after institution of the case, the instant prosecution has been launched by OP No.2 on 19.10.2013 putting allegation that his father-in-law, mother-in-law who had come on 14.10.2012, took away his wife along with ornaments, cash. When he has gone to the place of accused persons to bring his wife, he was assaulted, deprived of a golden chain and was also threatened not to come. They have also disclosed that Asha Devi will not go to his house and she will be married at another place.

5. From the order impugned, it is evident that learned



lower court had taken cognizance for an offence punishable under Section 323,504,498A of the IPC and that itself speaks non application of judicial mind at the end of the learned lower court, apart from being malicious one, satisfying one of the categories formulated by the Apex Court in Bhajan Lal's Case.

6. Consequent thereupon, the order impugned is set aside. Petition is allowed.

(Aditya Kumar Trivedi, J)

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