

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3469 of 2015

Arising Out of PS. Case No.-243 Year-2010 Thana- MOTIHARI MUFASIL District- East
Champaran

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1. Indrajeet Mahto son of Bhadai Mahto
 2. Dharmendra Singh son of Pundeo Singh
 3. Bhadai Mahto son of Janak Mahto
 4. Chandradeo Mahto son of Jhagru Mahto
 5. Manturan Devi wife of Bhadai Mahto
All residents of Village - Semra Belwatiya, P.S. - Piprakothi
 6. Baijnath Mahto son of Mohan Mahto
 7. Rina Devi wife of Baidyanath Mahto
 8. Ramdeo Mahto son of Shivilagan Mahto
 9. Bhuari Devi wife of Shivilagan Mahto Petitioner Nos. 6 to 9 residents of
village - Siswa, P.S. - Banjariya all within the District of East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ramsakal Mahto son of Late Khedan Mahto resident of village - Madhubani
Ghat, P.S. - Motihari Muffasil, District - East Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate
For the Opposite Party/s : Mr. Kanhaiya Kishore, App

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date : 05-07-2019

Heard learned counsel for the petitioners and
learned Additional Public Prosecutor for the State.

2. The petitioners are accused in connection with
Motihari Muffasil P.S. Case No.243 of 2010 registered under
Section 366/34 of the Indian Penal Code on the written
information of Opposite Party No.2.



3. Allegation is that on 02.11.2010, the petitioners kidnapped to the minor daughter of the informant. During investigation statement of the victim girl was recorded under Section 164 Cr.P.C. wherein she stated that she had voluntarily married with petitioner Indrajeet Mahto. Since the marriage was not liked by the parents this false case has been lodged. The victim is specific that no one had kidnapped her. A copy of the statement is at Annexure-3.

4. After investigation of the case the police did not send up the petitioners for trial stating that this is a case of mistake of fact. However, by the impugned order dated 07.05.2011 the learned Chief Judicial Magistrate, Motihari, differed with the police report and took cognizance under Section 366/34 of the Indian Penal Code. Thereafter, a compromise petition signed by the informant and other accused persons was filed on 23.09.2014 informing the learned Court-below that the parties have settled their dispute amicably.

5. Submission is that both are living as husband and wife and they are parents of a child. Hence, continuance of criminal proceeding would amount to an abuse of the process of the Court.

6. No one appears on behalf of Opposite Party No.2



despite service of notice.

7. The report of the learned trial Judge reveals that case is pending for appearance of the accused.

8. Considering the facts aforesaid, it is evident that the continuance of the criminal proceeding would amount to abuse of the process of the Court. Hence, the impugned order as well as the entire subsequent proceeding stands quashed and this application stands allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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