

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.950 of 2019

Arising Out of PS. Case No.-577 Year-2018 Thana- KISHANGANJ District- Kishanganj

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Krishna Deb Mahto @ Krishna Deo Mahto, Son of Doman Mahto, Resident of Ward no.2, Khousidangi, Pathariya, Thakur Ganj, Police Station-Galgalia, District-Kishanganj.

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Superintendent of Police, Kishanganj.
3. The Officer-in-Charge, Barh Police Station, Patna.
4. Shyam Prasad Harijan, Son of Late Baratu Harijan, Resident of Kulmani, Police Station-Kishanganj, District-Kishanganj.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate

For the Respondent/s : Mr. Sheo Shankar Prasad, SC-8

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date : 19-06-2019

Heard learned counsel for the petitioner and learned counsel for the State.

2. In the instant application preferred under Article 226 of the Constitution of India, the petitioner has prayed for quashing the First Information Report No.577 of 2018 registered with Kishanganj Police Station for the offences punishable under



Sections 363 and 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012.

3. It has been submitted by the learned counsel for the petitioner that the petitioner is not named in the first information report. He came to know about his involvement in the case after he was arrested. On the alleged date of incident, he was in Delhi. There are unimpeachable documents on the basis of which it can be said that the implication of the petitioner in the instant case on the basis of statement of the victim recorded under Section 164 of the Code of Criminal Procedure is false.

4. On the other hand, learned counsel appearing for the State submitted that initially the first information report was registered under Section 363 of the Indian Penal Code only on the basis of the written report submitted by the informant Shyam Prasad Harijan against unknown. The informant had stated in his written report that his daughter aged about 16 years had gone to bank at about 9:00 a.m. for withdrawing money and till 5:00 p.m. on 06.09.2018 when she did not return, though a search was made, she could not be traced. He suspected that his daughter has been abducted by some unknown person for some immoral purposes.

5. He contended that on the basis of the said written report after instituting the case against unknown, the police took up



investigation. In course of investigation, the victim was recovered and was produced before the court of Magistrate for her statement under Section 164 of the Code of Criminal Procedure wherein she disclosed that the petitioner not only abducted her on false pretext that her father had met with an accident but also confined her in his house and repeatedly raped her.

6. I have heard learned counsel for the parties and carefully perused the materials on record.

7. The allegations made in the written report on the basis of which the first information report has been instituted do attract ingredients of section 363 of the Indian Penal Code.

8. In that view of the matter, no illegality can be found with the action of the police in institution of the first information report.

9. The petitioner is not named in the first information report. His name has transpired in course of investigation only after the victim was recovered and, in her statement, she has stated that she was abducted, confined and repeatedly raped by the petitioner in her statement made under Section 164 of the Code of Criminal Procedure. The reliance on certain documents placed by the petitioner in order to prove his plea of *alibi* cannot be



considered by this Court at this stage for the purposes of quashing the first information report.

10. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.06.2019
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