

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38462 of 2019

Arising Out of PS. Case No.-291 Year-2018 Thana- SHEKHPURA District- Sheikhpura

Budhan Bind Son of Suresh Bind Resident of Village - Kare, P.S.-
Sheikhpura, Dist.- Sheikhpura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Ram Bilash Roy Raman, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 01-07-2019 Heard learned counsel for the petitioner and the

State.

The petitioner has challenged the order dated 02.05.2019 passed by the learned Additional District Judge-I, Sheikhpura in POCSO Case No. 18 of 2018 whereby the prayer made on behalf of the petitioner for his discharge from the case has been rejected.

It has been submitted on behalf of the petitioner that the victim has though named the petitioner in her statement under Section 164 Cr.P.C. but only in the context of the petitioner being a saviour in as much as the petitioner is alleged to have informed



the Sarpanch whereafter the victim was recovered.

It has been submitted on behalf of the petitioner that because of this statement made under Section 164 Cr.P.C., the investigation with respect to the petitioner was kept pending whereas chargesheet was submitted against the other accused persons. Later a supplementary chargesheet has been filed against the petitioner also.

Opposing the aforesaid contention, learned counsel for the State has pointed out that in the FIR, four persons have been named including the petitioner who had gone to the place of occurrence to kidnap the victim. He has therefore submitted that the statement made in the FIR and under Section 161 Cr.P.C. clearly indicate the complicity of the petitioner in the entire occurrence. It matters not if the victim has only named the petitioner in her 164 statement as having called the Sarpanch on telephone whereupon the victim was recovered. The very fact that the petitioner was stated



to be present along with the other accused persons at the time when the victim was kidnapped, demolishes any such attempt on the part of the petitioner to urge before the court about his innocence and that his being a saviour of the victim girl only. Though the allegation of rape may not have been directly alleged against the petitioner but there are sufficient materials to try the petitioner for the aforesaid offence.

For the aforesaid reasons, the order dated 02.05.2019 is not considered to be fit to be interfered with.

There is no infirmity in the order and therefore the petition is dismissed.

It is made clear that any observation made by this Court shall not affect the trial of the petitioner.

(Ashutosh Kumar, J)

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