

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8491 of 2015

Arising Out of PS. Case No.-38 Year-2014 Thana- KHAGAUL District- Patna

-
1. Manti Devi W/o Dwarika Rai
 2. Asha Devi W/o Arbind Prasad
Both Resident of Village Nauabagh, P.S. Masaurhi, District Patna.
 3. Mahesh Prasad Yadav S/o Darbari Prasad
 4. Jai Kuwar Devi W/o Mahesh Prasad Yadav
 5. Lallu Kumar S/o Pramod Kumar Petitioner No. 3 to 5 are Resident of
Village Nawada, P.S. Phulwari Sharif, District Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Rajesh Kumar S/o Ram Shakal Rai Resident of Village New Sabajpura,
Khagaul Lakh, P.S. Phulwari, District Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ganesh Prasad Yadav, Advocate
For the Opposite Party/s : Mr. Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 05-08-2019

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

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

3. By filing this application, under Section 482
Cr.P.C., the petitioners have sought for quashment of order of
cognizance dated 16.10.2014 passed by the learned Additional
Chief Judicial Magistrate, Danapur, in Khagaul P.S. Case No.38
of 2014 whereby cognizance was taken for offences under



Sections 363/365/34 of the Indian Penal Code, after differing with the police report submitted under Section 173 Cr.P.C. not sending up the petitioners for trial. The charge sheet was submitted only against co-accused Dharmbir Kumar and Arvind Kumar. Petitioners are relations of co-accused Dharmbir Kumar and Arvind Kumar.

4. According to First Information Report, the minor daughter of the informant went to attend the school on 07.03.2014. However, she did not return. Thereafter, the informant went to the school to search about the victim. One of the girl students, named in the FIR, disclosed that the daughter of the informant had gone along with two students of the school namely, Dharmbir Kumar and Lallu Kumar. Thereafter, the informant contacted to the family members including the petitioners on mobile call and the petitioners consoled that the victim girl would be returned very soon. However, the victim was not returned. In the meantime, Dharmbir and the victim girl married with each other and they sworn affidavit in support of their marriage with mutual consent and freewill on 07.03.2014. On 10.03.2014 statement of the victim girl was recorded by the Magistrate under Section 164 Cr.P.C. wherein she stated that co-accused Dharmbir was her friend and she had gone to visit in



the park along with Dharmbir. Thereafter, Dharmbir took her to his house. It was too late hence she could not return back. Dharmbir proposed for marriage. The victim declined to marry with him. Thereafter, Dharmbir took her to Ara where the police and parents came and the victim was released. She is specific that Dharmbir had not abducted her; rather she had voluntarily gone with Dharmbir. The victim had not named these petitioners.

5. Submission is that after statement of the victim under Section 164 Cr.P.C. the prosecution allegation stands only as bald allegation without any leg to stand because the victim of the crime has herself stated that she was not abducted by anyone. Moreover, she had not named the petitioners who were relation of the co-accused. Hence, criminal prosecution against the petitioners is an abuse of the process of the Court.

6. After going through the case-diary, the learned Additional Public Prosecutor does not disclose that anyone had seen the petitioners with the victim at any point of time.

7. On the basis of materials available on record, I find substance in the submission of learned counsel for the petitioners that no witness has supported the prosecution case before the police that the victim was kidnapped by anyone. The



victim has herself not supported that she was kidnapped and the victim has not named the petitioners anywhere.

8. Considering the fact that there is lack of material against the petitioner to compel them to face trial, the impugned order and entire criminal proceedings is an abuse of the process of the Court. Hence, the same is quashed.

9. Accordingly, the application stands allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.08.2019
Transmission Date	08.08.2019

