

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1342 of 2019

Arising Out of PS. Case No.-453 Year-2018 Thana- BIDUPUR District- Vaishali

Samant Jee, Male, aged about 24 years, Son of Raghuvansh Singh @
Raghubansh Prasad Singh Resident of Village - Mazalishpur, P.S.- Bidupur,
Distt - Vaishali.

... .. Petitioner

Versus

1. The State of Bihar through Home Secretary, Bihar, Patna.
2. Nitu Devi, D/o Narendra Rai, Resident of Village - Dhamaun (South), P.S.-
Patori, Distt - Samastipur.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Ratanakar Jha-Advocate
For the Respondents	:	Mr. Prabhat Kumar Verma-AAG-3

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

24.09.2019

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

2. This application under Articles 226 and 227 of the
Constitution of India has been filed by the petitioner for
quashing of the first information report of Bidupur P. S. Case
No.453/2018 dated 24.10.2018 registered under Sections 341,
323, 337, 498(A), 506/34 of the Indian Penal Code and Section
¾ of the Dowry Prohibition Act.

3. Learned counsel for the petitioner submitted that
the petitioner was forcibly married to a minor girl on
25.03.2018. The marriage was “Pakadua Vivah”. The villagers
of the minor girl forcibly kept her into the house of the



petitioner after breaking open the door of the house. They also procured signature of the petitioner over blank sheets of paper. The petitioner went to Bidupur Police Station and informed about the occurrence of “Forcible marriage” but the police did not register any F.I.R. An application was also sent to the Superintendent of Police, Vaishali, but still no investigation was conducted. The petitioner made complaint to various authorities regarding the forcible marriage. He also informed to the Human Rights Commission in this regard. Since no action was taken. His brother had filed a complaint in the Court of the C.J.M., Vaishali at Hajipur while Complaint Case No.705 of 2018, which was subsequently sent for investigation under Section 156(3) of the Code of Criminal Procedure. The petitioner has also filed a Matrimonial Case under Section 12 of the Hindu Marriage Act for declaration that his marriage with Nitu Devi was performed under coercion and threat and as such the same is illegal and void ab initio.

4. On the basis of the aforesaid submissions, learned counsel for the petitioner submitted that the F.I.R. in question is an abuse of the process of the Court and to secure the ends of justice, it is necessary to quash the same.

5. Per contra, learned counsel appearing for the State



submitted that the defence taken by the petitioner cannot be made a ground for quashing the first information report. He contended that the allegations made in the F.I.R. certainly attract the ingredients of offence punishable under Section 498(A) of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

6. In that view of the matter, the institution of the F.I.R. or its investigation cannot be held to be bad. According to him, the bonafide of the allegations made in the first information report can be examined by the Investigating Officer in course of investigation of the case. In case, the allegations would be found false, an appropriate police report would be filed on completion of investigation under Section 173(2) of the Code of Criminal Procedure. He pleaded that at this stage, it would not be proper for the Court to appreciate the various defences taken by the petitioner. He urged that as far as the allegation of refusal of the police to register a first information report etc. on the basis of complaint made by the petitioner are totally false.

7. Having heard the parties, when I look to the allegations made in the F.I.R. in question as contained in Annexure-1 to this application, I find that the informant has



alleged that she was married with the petitioner on 25.03.2018 as per the Hindu rites and rituals. Her father gave gift worth Rs.4 lakhs comprising of jewellery and utensils. After the marriage, she started residing in her sasural. After 3-4 months of the marriage, the accused persons started making a demand of a car by way of a dowry failing which she would be done to death. On 24.10.2018, when her grandfather came to meet her, the accused persons confined her to her room. Thereafter, the other people arrived and took her to the police station.

8. The allegations made in the first information report do attracts ingredients of a cognizable offence. In case of receipt of a report regarding cognizable offence, the police have a statutory duty to register F.I.R. and investigate the same. It has rightly been submitted by the learned counsel for the State that investigation is supposed to be confidential in nature. It is well settled that at the stage of investigation, the Court has no say. The role of the Court would start only after the investigation would be completed and a report under Section 173(2) of the Code of Criminal Procedure would be filed before the Court.

9. The defence taken by the petitioner cannot be made on the ground for quashing the first information report. The same has to be looked into by the police in course of



investigation and the Court during trial.

10. Regard being had to the discussions made above, I see no merit in this application. The application is dismissed accordingly.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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