

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35866 of 2012

Arising Out of PS. Case No.-106 Year-2010 Thana- TARAIIYA District- Saran

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Suchit Kumar Yadav @ Suchit Yadav Son Of Lal Babu Rai Resident Of
Village - Krishna Nagar, p.s. Madhuban, District - East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Awadhesh Singh Son Of Late Bikarama Singh, Resident Of Village Dumari Chapiya, P.S. Taraiya, District - Chapra (Saran).
3. Priyanka Kumari, daughter of Awadhesh Singh, wife of Suchit Kumar Yadav, resident of village- Krishna Nagar, P.S.-Madhuban, District- East Champaran

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Vijay Shankar Shrivastava, Advocate
For the Opposite Party/s	:	None
For the State	:	Mr. Jharkhandi Upadhyay, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 08-01-2019

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

2. Despite valid service of notice on opposite parties no.
2 and 3, nobody appeared on their behalf when the matter was
taken up and heard.

3. The present case under section 482 of the Code of
Criminal Procedure, 1973 has been filed by the petitioner for the
following relief:

*“That this is an application for
quashing of the order dated 24.3.2012
passed in Trial No. 305/12 arising out
of Taraiya P.S. Case No. 106/10 by the*



learned Chief Judicial Magistrate, Saran at Chapra whereby and whereunder the cognizance of the offences u/s 365 and 366 read with Section 34 of the Indian Penal Code has been taken against the petitioner which is pending in the court of learned Sri Amit Kumar Singh Judicial Magistrate, 1st Class, Chapra.”

4. The allegation against the petitioner and his mother is of abduction for the purpose of forceful marriage of minor daughter of the informant (opposite part no. 2).

5. Learned counsel for the petitioner submitted that the daughter of the opposite party no. 2 was not a minor as she was aged about 20 years on the date the complaint was filed which later on was converted into an F.I.R. Learned counsel submitted that the petitioner and the daughter of the opposite party no. 2, i.e., the opposite party no. 3 had married on 01.08.2010 itself, i.e., prior to the complaint being lodged on 27.08.2010, for which registration certificate of the marriage (Annexure-2) has also been issued to them by the Marriage Registrar, Gram Panchayat Raj Krishna Nagar, Prakhand Madhuban, East Champaran. It was submitted that due to opposition from the parents of the wife of the petitioner, her father has lodged a totally false case against the petitioner and his mother. Learned counsel submitted that the couple have also been blessed with a male child on 03.12.2011. In



support of such contention, learned counsel drew the attention of the Court to Annexure-3, which is copy of the birth certificate. Learned counsel submitted that the fact that the daughter of the opposite party no. 2 having married out of her own will would also be clear from the affidavit dated 30.05.2011 filed by her when she appeared before the court below in connection with the petitioner being released on anticipatory bail in terms of the order of the Court dated 16.05.2011 in Cr. Misc. No. 15320 of 2011 by which the Court had granted provisional anticipatory bail for three months to the petitioner and had directed the petitioner and the girl to appear before the court below fixing the date 30.05.2011 and it was stipulated that if the girl admitted that she had married on her own will with the petitioner and residing with him then the court below will confirm the provisional anticipatory bail of the petitioner. Learned counsel submitted that the couple are living happily without any complain.

6. Learned A.P.P. submitted that as per the allegation, the girl was a minor. However, he was not in a position to controvert the fact that the marriage was registered before the Marriage Registrar and, thus, in law, it presupposes that the parties were major and eligible to contract marriage between themselves. Thus, the presumption would be that the daughter of the opposite party



no. 2 was not minor, as claimed in the complaint, on the date of her alleged abduction.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that case for interference has been made out and allowing the criminal case to proceed would be an abuse of the process of the court.

8. For reasons aforesaid, the application is allowed. The entire criminal proceeding as well as the order dated 24.03.2012 passed in Trial No. 305 of 2012 arising out of Taraiya P.S. Case No. 106 of 2010 in which cognizance has been taken under Sections 365 and 366 read with Section 34 of the Indian Penal Code by the Judicial Magistrate 1st Class, Chapra, as far as it relates to the petitioner, stands quashed.

(Ahsanuddin Amanullah, J)

Anjani/-

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