

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.935 of 2017

Arising Out of PS. Case No.-30 Year-2014 Thana- KORHA District- Katihar

1. Sanjay Kumar son of Nagendra Chaudhary.
2. Rita Kumari wife of Sanjay Kumar.
Both resident of village-Rusulpur Osti, P.O. and P.S. Mahua, District-Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Paltan Singh son of Yogendra Singh, resident of village-Babanganj, P.S.-
Korha, District-Katihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv. Mr. Ritwaj Raman, Adv. Mr. Sweta Kuamri, Adv.
For the Opposite Party/s :		Mr. Anuj Kumar Srivastava, APP

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 24-01-2019 Heard learned counsel for the petitioners as well as
learned A.P.P.

Petitioners have been summoned to face trial for an
offence under Section 366A, 376, 120B of the IPC vide order
dated 10.06.2016 passed by the CJM, Katihar in connection
with Korha P.S. Case no.30/2014 subject matter of instant
petition.

Father of the victim (name withheld), namely, Paltan
Singh (O.P. No.2) filed complaint petition on account of having
the victim kidnapped, raped at the end of Sanjay Kumar
(petitioner) wherein his wife Rita Kumari (Petitioner No.2)
actively involved as an abater, which he came to know after



recovery of the victim from the house of the Sanjay Kumar at the instance of local mukhiya and others, was sent to local police for registration and investigation of the case as provided under Section 156(3) of the Cr.P.C. and after concluding the same, charge sheet was submitted whereupon, the learned court took cognizance of an offence and summoned the petitioners, which has been challenged under instant petition.

It has been submitted at the end of the petitioner no.1, Sanjay Kumar that irrespective of status of the victim she voluntarily joined his company by way of solemnizing marriage and for that, submitted that though it was second marriage, but was through court marriage (Annexure-4) which she was knowing since before. Furthermore, it has also been submitted that the family members were against the step taken by the so alleged victim who was in deep love and affection with the petitioner no.1 and further, as it was intercaste marriage so they were threatened and for that, the victim as well as petitioner no.1 jointly filed petitions before the concerned authorities. Apart from this, series of love letters and other documents have been filed including that of statement of the victim recorded under Section 164 Cr.P.C for commission of rape so far petitioner no.2 is concerned, she cannot be prosecuted. So



submitted that it is not a case to justify applicability of Section 366A, 376, 120B of the IPC whereupon, the order impugned is fit to be quashed.

The learned Additional Public Prosecutor opposed the same.

Meticulous examination with regard to disputed question of fact is out of ambit and scope of Section 482 Cr.P.C. Moreover, the second marriage happens to be ab-initio void more particularly when the victim happens to be minor as, consent having at her end would not get any legal recognition. Apart from this, from the statement of the victim (Annexure-1) is thereto, which justify the order impugned.

Accordingly, instant petition sans merit, consequent thereupon, is rejected.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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