

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77088 of 2019

Arising Out of PS. Case No.-1101 Year-2018 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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KANTI DEVI, W/o Sheshnath Ram, R/o village - Majhauriya, P.S. -
Majhauriya, District - West Champaran. At Present R/o Mahawat Toli, P.S. -
Bettiah Town, District - West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sheikh Islam, S/o Late Sheikh Kitab, R/o village - Sheikh Dhurwa, P.S. -
Manupul, District - West Champaran

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate
For the Opposite Party/s : Mr. Jharkhandi Upadhyay, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 28-11-2019

Heard learned counsel for the parties.

2. The petitioner had brought Complaint Case No. 1101 of 2018 against opposite party no. 2 alleging therein that the petitioner was serving as a maid in a nursing home where opposite party no. 2 visited for treatment of his wife in January, 2017. Thereafter, opposite party no. 2 was off-and-on visiting the nursing home in connection with treatment of his wife. Intimacy developed between the petitioner and opposite party no. 2 and on one occasion, opposite party no. 2 stayed in the house of the petitioner and forcefully established physical relation with her. Since opposite party no. 2 has assured to help the petitioner financially, the petitioner kept mum. However, she was always trying to



escape from the said relationship. On 24.06.2018, again opposite party no. 2 visited in the house of the petitioner in the night and against consent of the petitioner committed rape against her and threatened that the photographs taken in compromising position would be flashed on social media to tarnish the reputation of the petitioner. In the cross-examination, the petitioner stated that opposite party no. 2 used to pay her money whenever stayed in her house along with his wife. The petitioner further admitted that she never disclosed to the wife of opposite party no. 2 regarding relationship of opposite party no. 2. The witnesses examined during trial supported the case of the complainant as hearsay witnesses. Learned trial Judge noticed that the physical relation was consencious one between two majors and the real dispute was non-payment of money as desired. Hence, no, prima facie, case is made out for proceeding against the accused. The order was challenged before the learned Sessions Judge in Cr. Revision No. 26 of 2019 which was dismissed on 07.08.2019.

3. Both the orders aforesaid are under challenge in this application under Section 482 Cr.P.C.

4. Learned counsel for the petitioner submits that at this stage meticulous appreciation of evidence is not permissible and if the petitioner is assumed to be in physical relation with opposite



party no. 2 in the past that was not a licence with opposite party no. 2 to commit sexual assault forcefully without consent of the petitioner.

5. The scope of power, under Section 482 Cr.P.C., is circumscribed by the situations mentioned in Section 482 Cr.P.C. as to prevent the abuse of the process of the Court or to secure the ends of justice besides giving effect to any order passed under the Code.

6. In my view, the Courts below have applied their judicial mind consistent with material on the record and they have come to a conclusion which cannot be faulted as perverse one. Hence, there is no question of abuse of the process of Court or failure of justice.

7. Accordingly, this application is dismissed as devoid of any merit.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	02.12.2019
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