

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31848 of 2018

Arising Out of PS. Case No.-254 Year-2013 Thana- JANDAHA District- Vaishali

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Md. Muzaffar Hussain S/o Mazhar Hussain, Resident of Mohalla- Sahpur Toi,
P.S.- Sahdai Bujurg, District- Vaishali. Petitioner

Versus

The State Of Bihar Opposite Party

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Appearance :

For the Petitioner/s : Mr.Satya Prakash Sinha, Advocate

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 05-12-2019 Heard learned counsel for the petitioner. No one appears on behalf of the State to oppose this application.

The petitioner in the present case is seeking quashing of the order dated 21.03.2018 passed by learned Sessions Judge, Vaishali at Hajipur in S. Tr. no. 71 of 2018 arising out of Jandaha P.S. Case No. 254 of 2013 by which the petition dated 21.03.2018 for discharge filed by the petitioner has been rejected.

In this case the allegation against the petitioner is that he used to visit the house of the informant for taking tuition to the children of the informant and during this period the petitioner developed illicit relationship with the wife of the informant. The informant alleged that this petitioner has taken away and disappeared with the wife of the informant. In this connection, he has also stated that his son Dipak Kumar had



informed him that the Home Teacher had taken away his mother, thereafter, the petitioner was caught by the villages and he was handed over to Police.

Learned counsel for the petitioner submits that in fact the wife of the informant is the Secretary of the School in which the petitioner was a Teacher and on the date when the wife of the informant had disappeared, the petitioner had gone to participate in a function in his relation after taking leave from the school.

Learned counsel submits that in course of her statement recorded under Section 164 Cr.P.C. the wife of the informant has stated that she had been tortured as a result whereof she had gone to her sister's house and further her husband came to know this, he came to her sister's house and thereafter she was brought to Station by her sister from where she came back. It is further contention of learned counsel for the petitioner that the informant has also filed a petition as contained in Annexure '5' with the present application in which he has prayed to discharge the accused-petitioner.

It appears that by the impugned order learned Sessions Judge, Vaishali has rejected the prayer for discharge after taking note of the statements of witnesses recorded in



paragraph '7', '8', '9' and '10' of the case diary. On perusal of the materials he has got a view that there are sufficient materials to frame charge against the petitioner.

Learned counsel for the petitioner submits that the learned Sessions Judge, Vaishali has, however, not dealt with the submissions of the petitioner.

Having heard learned counsel for the petitioner and on perusal of the impugned order, this Court finds that in the statement under Section 164 Cr.P.C. the wife of the informant has come out with a different story and at this stage the informant also seems to have filed a petition for discharge of the petitioner.

Learned Sessions Judge has on perusal of the materials found that there are sufficient materials to frame charge against the petitioner, however, in the opinion of this Court, the observation of the learned Sessions Judge with regard to the materials present for purpose of framing of charge cannot be seen as an ultimate conclusion or finding as to the evidentiary value of those materials. It cannot be said that the submission of the petitioner has been rejected not to be considered at the stage of the trial.

This Court finds no reason to interfere with the



impugned order. However, it is made clear that in course of trial the learned trial court shall after recording the statement of the informant and his wife take an appropriate view of the matter and the trial would be concluded within a maximum period of four months from the date of receipt/production of a copy of this order.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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