

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8338 of 2020

Arising Out of PS. Case No.-33 Year-2019 Thana- MAHILA PS District- Gaya

-
1. Pankaj Kumar, Male, aged about 30 years, Son of Shri Bhola Prasad
 2. Subodh Kumar, Male, aged about 31 years, Son of Shri Bhekhraj Mahto
Both resident of Village - Sharwan Pokhar, P.S.- Barachatti, District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rinku Devi, Female, aged about 32 years, Wife of Mintu Prasad Resident of
Village - Sharma Pokhar, P.S.- Barachatti, District - Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P. K. Shahi, Sr. Advocate with Mr. Ganga Prasad Bimal, Advocate
For the State	:	Mr. Kumar Ranjit Ranjan, APP
For the Informant	:	Mr. Sanjay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 09-06-2020

The matter has been heard *via* video conferencing due to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. P. K. Shahi, learned senior counsel along with Mr. Ganga Prasad Bimal, learned counsel for the petitioners; Mr. Kumar Ranjit Ranjan, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State and Mr. Sanjay Kumar, learned counsel for the informant.

3. The petitioners are in custody in connection with Mahila PS Case No. 33 of 2019 dated 05.12.2019 instituted under Sections 376(D)/379/498(A)/34 of the Indian Penal Code.



4. The allegation against the petitioners, along with others, is of forcibly having established physical relationship with the informant and thereafter also having taken away her belongings and ornaments.

5. Learned counsel for the petitioners submitted that they are cousin brothers of the informant. It was submitted that the informant has stated that her husband was of weak mind and, thus, the petitioners had established physical relationship with her forcibly under threat. It was submitted that though the same has been recorded in her statement before the Court under Section 164 of the Code of Criminal Procedure, 1973 but the police upon investigation have not found the case true under Sections 376(D) and 379 of the Indian Penal Code and, thus, charge sheet has been submitted only under Section 498(A) of the Indian Penal Code on 29.01.2020. Learned counsel submitted that the petitioners have been falsely implicated which would be clear from the fact that the husband of the informant had himself filed an informatory petition with regard to the illicit relationship the informant had with one Jitendra Kumar and thereafter a case was also filed. It was submitted that both the informatory petition and the case filed by the husband of the informant were prior to filing of the present case. It was



contended that the informant has herself stated before the Court that she was living with Jitendra Kumar. Learned counsel submitted that the petitioners have no other criminal antecedent and are in custody since 06.12.2019.

6. Learned APP, from the case diary, did not dispute that charge sheet has been submitted only under Section 498A of the Indian Penal Code.

7. Learned counsel for the informant submitted that the petitioners had forcibly established physical relationship. However, he could not controvert the fact that the police upon investigation have found such allegation not corroborated.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned SDJM, Gaya in Mahila PS Case No. 33 of 2019, subject to the conditions (i) that one of the bailors shall be a close relative of the petitioners, and (ii) that the petitioners and the bailors shall execute bond with regard to good behaviour of the petitioners. Any violation of the terms and conditions of the bonds shall lead to cancellation of their bail bonds. The petitioners shall also



cooperate in the case.

9. The application stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	
T	

