

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87087 of 2019

Arising Out of PS. Case No.-27 Year-2019 Thana- TARAIIYA District- Saran

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1. Mehrun Begum W/o Manib Sai @ Manir Resident of Village - Rasidpur, P.S.- Taraiya, Distt.- Saran at Chhapra.
 2. Baby Khatoon W/o Sadik Sai Resident of Village - Andharbari, P.S.- Taraiya, Distt.- Saran at Chhapra.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Umesh Singh Son of Late Chandrama Singh Resident of Village - Bhatgai, P.S.- Taraiya, Distt.- Saran at Chhapra.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rananjay Kumar
For the Opposite Party/s : Mr.Nitya Nand Tiwary

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 08-01-2020

Heard learned counsel for the parties.

This application has been filed under Section 482 of the Cr.P.C for quashing the order dated 25.06.2019 passed by learned ADJ-I, Saran at Chhaprain in POCSO No. 59 of 2019 arising out of Taraiya P.S. Case No. 27 of 2019, by which learned court below took cognizance against the accused-petitioners for the offence punishable under Sections 363, 366A and 376 of the Indian Penal Code and Section 4 of POCSO Act.

Informant in his written complaint has alleged that on 22.01.2019 at about 4:30 am in the morning when her minor daughter went to attend the call of nature petitioners along with



Shah Alam, Hina Khatoon, Asir Sai, Dayalu Singh and Sadiq Sai, kidnapped her daughter for the purpose of marriage and accused Shah Alam eloped with her daughter somewhere, and thereafter after much search she could not be traced.

On the basis of evidence collected during investigation, chargesheet was filed against petitioners upon which, the court below found *prima facie* case to be made out against the petitioners and took cognizance for the offence punishable under Sections under Sections 363, 366A and 376 of the Indian Penal Code and Section 4 of POCSO Act and issued summons for their appearance to face trial.

At the stage of taking cognizance the court has to form an opinion on the basis of materials available on record that whether a *prima facie* case is made out against the accused or not. Relevancy, adequacy or sufficiency of evidence cannot be considered at the stage of taking cognizance.

The defence of the accused cannot be considered at the time of taking cognizance. This Court in its inherent jurisdiction cannot substitute its view regarding sufficiency or adequacy of material before the court below at the time of taking cognizance and issuance of summons against accused as same is within exclusive domain of trial court, as such I am not inclined to interfere with the order dated 25.06.2019 passed by learned



ADJ-I, Saran at Chhaprain in POCSO No. 59 of 2019 arising out of Taraiya P.S. Case No. 27 of 2019.

The criminal miscellaneous petition is dismissed.

However, the petitioners will be at liberty to raise all the issues raised before this Court as well as other points available to them in accordance with law at subsequent stage i.e. at the time of framing of charge.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.01.2020
Transmission Date	13.01.2020

