

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87107 of 2019

Arising Out of PS. Case No.-272 Year-2017 Thana- DIGHA District- Patna

Manish Kumar, aged about 26 years, (M), Son of Om Prakash Singh,
Resident of Ganga Gate No. 43, Rajapul, Mainpura, P.S.- Patliputra, District-
Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Puja Kumari, aged about 24 years, (F), D/O Raj Kumar Singh, Resident of
Village - Kurji, Near Loyla School, P.S.- Digha, District - Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar Gupta, Adv.
For the Opposite Party/s : Mr.Umesh Lal Verma (APP)

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 01.10.2019 passed by
learned Additional District & Sessions Judge, 1st Patna, in
Special Case No. 137 of 2017, by which learned court below
rejected the discharge petition dated 21.06.2019 filed by
petitioner.

Informant in her written complaint has alleged
that she resided with her parents and brothers and sisters where
petitioner Manish Kumar used to come as he was friend of his
elder brother Shekhar Kumar and they developed intimacy. It is



further alleged that Manish Kumar(petitioner) took her to appear in matriculation examination and after examination on 13.03.2014 he took her into Hindu Janta Dharamshala in Aurangabad and thereafter he gave some intoxicant in her food and she lost her consciousness and thereafter he established physical relation with her. At that time she was aged about 15 years and thereafter he continued to sexually exploit her and promised to marry her. It is further alleged that both solemnized marriage on 04.05.2017 in Temple however, the parents of the Manish Kumar did not accept her and asked to bring Rs. 5 lacs as dowry.

On the basis of above written complaint FIR was lodged giving rise to Digha P.S. Case No. 272 of 2017 and after investigation police found the accusation against petitioner to be true and submitted chargesheet under Sections 498 (A) of I.P.C., Section 3/4 of D.P. Act and Section 3, 5 and 6 of the POCSO Act and court took cognizance under Section 498(A) and 376 of IPC, section 3/4 of D.P. Act and Section 4/6 of POCSO Act against the petitioner.

It is submitted on behalf of petitioner that the case is false and concocted and prior to institution of the case he had lodged a complaint case in the court of Chief Judicial



Magistrate, Patna against Informant and his family that they are compelling him to marry Informant.

Discharge petition under Section 227 of Cr.P.C. was filed on behalf of petitioner that no criminal offence is made out against him, as such he should be discharged.

However, the court below on the basis of materials available on record and evidence collected during investigation found sufficient material against petitioner for framing charges under Section 498 (A) of IPC, Section 3/4 of D.P. Act, Section 3,5 and 6 of POCSO Act and Section 376 of I.P.C. and rejected the discharge petition by order dated 01.10.2019.

At the time of framing of charge the court has to only *prima facie* be satisfied about the existence of sufficient materials for proceeding against the accused. For the limited purpose the court can evaluate material and documents on record but it cannot appreciate evidence. The court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused. Truthfulness or falsity of allegations essentially pertains to the realm of evidence and same cannot be pre-judged at the stage of framing of charge.



This court does not find any error or irregularity in the order dated 01.10.2019 passed by learned Additional District & Sessions Judge, 1st Patna, in Special Case No. 137 of 2017.

Accordingly, this criminal miscellaneous petition is dismissed.

(S. Kumar, J)

Rajiv/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	
Transmission Date	

