

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 15269 of 2021

Arising Out of PS. Case No.-236 Year-2019 Thana- JHAJHA District- Jamui

Manoj Marandi @ Manoj Kumar, aged about 30 years, Male, Son of Baldeo Marandi, Resident of Village- Karahra Tola Bhalbinda, PS- Jhajha, District- Jamui.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bharat Lal, Advocate
For the State	:	Mr. Amit Kumar Rakesh, APP
For the Informant	:	Mr. Jay Ram Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 12-08-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Bharat Lal, learned counsel for the petitioner; Mr. Amit Kumar Rakesh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Jay Ram Prasad, learned counsel for the informant.

3. The petitioner apprehends arrest in connection with Jhajha PS Case No. 236 of 2019 dated 15.08.2019, instituted under Sections 323, 354(B), 307, 376, 506, 509, 366, 313 and 394/34 of the Indian Penal Code.



4. The allegation against the petitioner is that he had established physical relationship with the informant in the year 2012 and even after getting a job in the BSF in the year 2013, he had maintained the relationship and had promised to marry her and in the year 2018, they had cohabited and when the informant had conceived, she was made to abort and thereafter when she had gone to the house of the petitioner, initially she was told to keep quiet, but later, she was abused, threatened and assaulted and was told that she should forget about the whole thing and they would get the petitioner married somewhere else.

5. Learned counsel for the petitioner submitted that after being employed in the BSF in the year 2013, he used to come to his village only after 2-3 years and there was no occasion to be in touch with the informant. It was submitted that it is also unbelievable that the informant would wait for six years to lodge the complaint when the petitioner admittedly was employed in BSF in the year 2013 itself, and the informant was aged 19 years and, thus, there was no legal impediment for marriage and raising no claim for marriage shows the falsity of the case. It was further submitted that the allegation that she went to the house of the petitioner in the year 2019 and was turned out is also false since the petitioner had already



married someone else in the year 2017 and, thus, on 14.02.2019, there could not have been any occasion for the family members of the petitioner to tell the informant that she should forget about the petitioner and that they shall get the petitioner married somewhere else. Learned counsel submitted that the petitioner has no criminal antecedent and because of this false case, his job is also at stake.

6. On 17.06.2021, the Court had asked learned APP to get the up-to-date legible photo copy of the entire case diary as also a report with regard to the stand taken by the petitioner that he had married another woman in the year 2017, from the Superintendent of Police, Jamui.

7. As the report submitted by the Superintendent of Police, Jamui indicated that no evidence was found of the petitioner having married in the year 2017, the Court had noted that such report was not based on verification done from the village of the said lady, a fresh report was required was directed to be submitted in terms of order dated 19.07.2021. The same has been submitted under letter dated 03.08.2021 of the Superintendent of Police, Jamui in which it has been stated that the Superintendent of Police, Jamui had himself visited the village of Ranju Kumari, whom the petitioner claims to have married, and



on the basis of statement of independent witnesses and the neighbours, it has transpired that the petitioner had married her in the year 2017 and there is a girl child also born out of the wedlock. Further, learned counsel for the petitioner had also undertaken to file supplementary affidavit bringing on record certificate of the employee i.e., the BSF authorities with regard to petitioner having informed the BSF about his marriage in the year 2017 itself. He submitted that a supplementary affidavit has been filed. However, from perusal of the same, it appears that till date, there is no nomination of any person in the service record of petitioner before the BSF and it has been stated that the same is in process. Moreover, the date on which the form has been filled up is 12.08.2019 i.e., much after the so-called marriage as also the filing of the present case.

8. Learned APP assisted the Court on the basis of the communication received from the Superintendent of Police, Jamui, as referred to above.

9. Learned counsel for the informant submitted that the allegations are correct and during investigation also witnesses have supported the same. On a query of the Court with regard to there being no statement of any independent witness recorded and



only interested witnesses from the village of the informant having been examined, learned counsel could not controvert the same.

10. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that a serious doubt has been created with regard to the veracity of the allegation as it has not been explained as to why the informant would wait for six years after the petitioner had already been employed and would not press for marriage and would be satisfied with the casual relationship between the parties, as both were majors and there was no other impediment coming in the way of marriage.

11. Further, the Superintendent of Police, Jamui himself having inquired from independent witnesses with regard to the petitioner having married Ranju Kumari in the year 2017 and the allegation being that in the year 2019, the informant had gone to the house of the petitioner where she was assured that she would be married to the petitioner and on 14.02.2019, she was ousted from the house also indicates that the wife of the petitioner being in the house, it is difficult to accept that she would have been kept in the house and assurance of marriage would be given and that she would not know that already the petitioner is married and the wife is living in the house. Thus, taking an overall view of the



matter, for the purpose of considering the present application for grant of pre-arrest bail, the Court is inclined to allow the prayer.

12. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Sub-Divisional Judicial Magistrate, Jamui in Jhaja PS Case No. 236 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioner and (iii) that the petitioner shall co-operate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of his bail bonds.

13. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.



14. The petition stands disposed of in the aforementioned terms.

15. With regard to the issue of the reports submitted by the Superintendent of Police, Jamui, the Court finds that he is required to explain as to how the first report was submitted by him dated 03.07.2021 in complete violation of the order of the Court dated 17.06.2021, for the reason that in the entire report, the investigation which had already been done in the year 2019 and his report II dated 30.11.2019, has been relied upon, without any verification with regard to the stand taken by the petitioner relating to details of the girl who he claimed to have married in the year 2017. Thus, no steps taken for such verification in terms of order dated 17.06.2021 and reliance placed on the investigation already concluded in the year 2019, is clearly contemptuous and a blatant violation of the direction of the Court by the Superintendent of Police, Jamui as contained in order dated 17.06.2021. Thus, let the Superintendent of Police, Jamui submit an explanation as to why the Court may not take strict notice of such blatant violation of the specific direction of the Court and pass appropriate orders.

16. Accordingly, the matter be listed on 31st August, 2021, among the top five cases, when explanation personally by



the Superintendent of Police, Jamui shall be placed before the Court by the learned APP.

17. It is made clear that the matter will be listed on the next date only for the purpose of considering the explanation of the Superintendent of Police, Jamui as on merits it has already been disposed of.

18. Learned APP shall communicate the order to the Superintendent of Police, Jamui.

(Ahsanuddin Amanullah, J.)

P. Kumar

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