

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40386 of 2021

Arising Out of PS. Case No.-249 Year-2012 Thana- RAJAOLI District- Nawada

RAVINDRA KUMAR Son of Mahendra Prasad Resident of Village- Gariba,
P.O.- Bahadurpur, P.S.- Rajauli, District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amresh Kumar Sinha, Advocate

For the Opposite Party/s : Mrs. Sangita Kumari Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

- 4 09-12-2021 1. Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.
2. Petitioner herein filed above mentioned Cr. Misc. application for grant of regular bail in connection with Sessions Trial No. 210 of 2021 arising out of Rajauli P.S. Case No. 249 of 2012 dated 04.12.2012 registered for offences punishable under Sections 376, 313 and 201/34 of the Indian Penal Code.
3. Learned Additional District and Sessions Judge- Ist, Nawada had rejected the prayer for grant of regular bail to the petitioner vide order dated 14.06.2021. In the impugned order, the learned Court below had assigned reasons that the prima-facie case against the petitioner is established under Section 376, 313 and 201/34 of the Indian Penal Code by observing that the petitioner had established physical relationship with the



daughter of the complainant and raped her on false assurance of marriage and along with the family members, strangled the newly born child and had thrown the child in a field.

4. The petitioner had surrendered before the Court on 02.01.2021. In spite of the fact that complaint case was filed on 30.10.2012 and corresponding P.S. Case was registered on 04.12.2012.

5. Learned counsel for the petitioner filed mentioning slip on 03.12.2021 for grant of provisional bail on the ground that marriage of the petitioner himself is scheduled to be held on 13.12.2021. The matter was taken up under heading “To Be Mentioned” on 03.12.2021 and it was directed to be heard on 06.12.2021. The mentioning slip also contained the relevant portion of marriage invitation card giving details of the programme of the marriage of the petitioner to be solemnized on 13.12.2021 with one Anshu Kumari, daughter of Smt. Sushila Devi and Sri Bindu Mahto of Village- Singhaul, P.O.- Odhanpur, P.S.- Muffasil, District-Nawada (Bihar). In this regard, petitioner had filed Interlocutory Application bearing I.A 01/2021 along with *vakalatnama* on behalf of the petitioner with no objection. In the Interlocutory Application a specific prayer has been made for releasing the petitioner on provisional bail for the purpose of



his own marriage which is scheduled on 13.12.2021 containing the detail programme which was to start from 11.12.2021 as per in the marriage invitation card. The relevant paragraphs of the above I.A. *inter-alia* are as follows:-

(i) That this I.A. petition is being filed for grant of provisional bail to the petitioner for the purpose of his own marriage which is scheduled on 13.12.2021 for a period of at least one month, in connection with Rajauli P.S. Case No. 249/12 u/s 376,313,201/34 of IPC, pending in the Court of 1st Additional District & Session Judge, Nawada, is directed in the following facts and circumstances of the case.

(ii) That marriage of the petitioner is going to be done with Anshu Kumari, d/o Smt. Shushila Devi & Sri Bindu Mahto of Village Singhaul, P.O- Orahanpur, Distt.- Nawada.

(iii) That petitioner undertakes to surrender after expiry of provisional bail so granted by this Hon'ble Court.

(iv) That for the purpose of marriage petitioner deserves to be released on provisional bail.

(v) That the averments made in main bail petition may be treated as a part of the present I.A. petition.

(vi) That in interest of justice for purpose of marriage petitioner may be allowed provisional bail for at least one month.

(vii) That petitioner is a man of means and having roots in society and there is no chance of being flee away if released



on bail.

(viii) It is therefore prayed that Your lordship may graciously be pleased to release the petitioner on provisional bail to the satisfaction of learned Court of 1st Additional District & Session Judge, Nawada in connection with Rajauli P.S. Case No. 249/12 And/or Pass such other(s) order(s) which your you our may deem fit and proper in the facts and circumstances of the case. And for this petitioners shall ever pray.

6. Learned A.P.P. for the State Smt. Sangita Kumari Singh submits that the present I.A. has been sworn before the Oath Commissioner on 01.12.2021 by one Sombir whose details are there in the affidavit that he is aged about 32 years, son of Kanwar Lal, Resident of Karontha, P.S.- Shivaji Colony Rothak, District- Rohtak (Haryana). However, the deponent of the affidavit is Birendra Kumar who had earlier sworn the affidavit as a pairvikaar of this case in the main bail application. In present affidavit accompanying the I.A., the deponent has been identified by Sri Niwar Kumar having Registration No. 2052 of 2021 and is advocate clerk of Ms. Preety Kunwar, however, it



contains the signature of Birendra Kumar along with his Adhaar Card and no certificate has been signed by Sri Amresh Kumar Sinha with respect to the above named clerk Sri Niwas Kumar who has identified Sombir before the Oath Commissioner, Amresh Kumar had filed the I.A after obtaining “No Objection” from earlier counsel Ajay Kumar Sinha, This Court after examining the Interlocutory Application had found the above submission of learned A.P.P. Smt. Sangita Kumari Singh to be correct which necessitated this Court to pass order dated 07.12.2021 to call all the persons as mentioned in the invitation card to be personally present in the Court today.

7. Today, in compliance of order dated 07.12.2021, complainant, Dinesh Prasad O.P. No. 2 is present, however, his daughter has not appeared. The counsel for the petitioner also produced father of the bride but the bride namely, Ansu Kumari is absent with whom the petitioner who is in custody is to be married on 13.12.2021 as per the invitation card annexed with the I.A filed on 01.12.2021.

8. The father of the bride has stated in the Court that he is apprised of all the allegation made in the complaint/F.I.R. against the petitioner in the complaint petition. Dinesh Prasad, complainant is also present in the Court. This Court made a



query from the complainant Dinesh Prasad, as to whether he knows the person next to him in the court (as per the invitation card, Bindu Mahto), he readily informed that his name is Alakh Mahto and he is residence of village-Singhaul, P.O.- Odhanpur, P.S. Mufassil, District- Nawada (Bihar) Prima facie it appeared to this Court that the father of the bride name is Bindu Mahto but the complainant has named the person Alakh Mahto, this Court smelt some foul being played thereafter, fixed the matter in Chamber at 1:45 p.m.

9. The Court asked the name from the so called father of the bride Ansu Kumari repeatedly for five minutes but the said father of the bride could not disclose his name in the chamber in presence of Smt. Sangeeta kumari Singh, learned A.P.P., Amresh Kumar Sinha, learned counsel appearing on behalf of the petitioner and the Court Master. In the chamber, the complainant Dinesh Prasad was first called who reiterated the fact that the person who has been introduced by the learned counsel on behalf of the petitioner is none other than Alakh Mahto and he has no knowledge about the fact that his daughter namely Ansu Kumari is going to be married with the petitioner. Thereafter, the so called father of the bride Ansu Kumari who has been identified by the complainant as Alakh Mahto was



called in the chamber in presence of the complainant and other persons present in the chamber. He was asked to give his name to which he clumsily remained dumb and behaved as if he is deaf and has not listened the query of the Court though he was asked repeatedly even then he did not disclose his name in front of the complainant and all the persons present in the chamber. He was asked to go and he immediately turned around and went outside the chamber. It had appeared to all present in the chamber that he has acted in the chamber to remain deaf as he could not remember the name of the father of the bride Bindu Mahto to whom he has impersonated.

10. The very fact, which has come in course of interrogation of the two persons, it appears that Alakh Mahto had impersonated the father of the bride Ansu Kumari namely Bindu Mahto, as per the marriage invitation card. Alakh Mahto, who has impersonated Bindu Mahto, is also of Village-Singhaul, P.O.- Odhanpur, P.S.- Mufassil, District- Nawada (Bihar) .

11. This Court for verification of the marriage invitation card as to whether the same is true and genuine or it is fabricated one used just to ruse to get temporary bail on false pretext and the manner in which the I.A. has been filed and nature of crime committed by the petitioner had directed, Sri



Amresh Kumar Sinha, who had filed the aforesaid Interlocutory Application after obtaining “No Objection” from the earlier counsel, Mr. Ajay Kumar Sinha, to implead the victim Ansu Kumari and the complainant who is the father of the victim Ansu Kumari, Sri Dinesh Prasad Singh as O.P. No. 2 and 3 respectively. However, inspite of the order of this Court, Sri Amresh Kumar Sinha had only impleaded the complainant Sri Dinesh Prasad Singh as O.P. No. 2 and deliberately did not impleaded victim Ansu Kumari as O.P. No. 3. This Court had also directed to issue notice to the opposite parties and had fixed up the date of hearing on 09.12.2021 vide order dated 07.12.2021. In the meantime, Sri Amresh Kumar Sinha was also directed to contact his client and to produce the father of the girl who was going to be married with the present petitioner on 13.12.2021. The name of the Bride’s father as per the marriage card is Sri Bindu Mahto of Resident of Village- Singhaul, P.O.- Odhanpur, P.S. Mufassil, District- Nawada (Bihar) to be present in the Court on 09.12.2021.

12. After perusing the entire Interlocutory Application as well as fresh *vakalatnama* filed by Sri Amresh Kumar Sinha on behalf of the petitioner, it seems that earlier, the main bail application was sworn by one Birendra Kumar, aged about 26



years, male, Son of Mahendra Prasad, Resident of Village- Gariba, P.O.- Bahadurpur, P.S.- Gariba, District- Nawada (Bihar) who has stated that he is the own brother of the petitioner. The said affidavit was identified by Indrajeet Kumar, advocate clerk to Jitendra Narayan, advocate having Registration No. 1618 of 2021 on 01.07.2021 and the same was duly affirmed before the Oath Commissioner, name illegible who had examined the content of the affidavit and the deponent has acknowledged the same to be correct. The affidavit is accompanied by a certificate duly issued by Sri Ajay Kumar Sinha, who seems to the advocate on record at that point of time.

13. The petitioner's counsel has not only deliberately played fraud in producing some other person by impersonating Bindu Mahto, he has also after obtaining No Objection has prepared false affidavit in I.A. No. 01/2021 on behalf of pairvikaar one Sombir, aged about 32 years, son of Kanwar Lal, Resident of village- Karontha, P.S.- Shivaji Colony Rohtak, Dist- Rohtak (Haryana) who on oath has made a specific statement that he is cousin brother of the petitioner and as such well acquainted with the facts and circumstances of the case, has forged a fictitious affidavit which got attested the signature



of Birendra Kumar purporting to have been executed by Sombir, and attested in presence of Advocate Oath Commissioner, R.K. Jha, Patna High Court who without verifying the endorsement of identification put on 01.12.2021 bearing the oath No. 3635 by Sri Niwas Kumar Advocate clerk to Ms. Preety Kunwar having Registration No. 2052 of 2021, committed cheating and fix responsibility in creating such false document to get the relief. The burden is on the person who relies upon such fabricated document. Here the affidavit dated 01.12.2021 prepared in execution of Interlocutory Application by Shri Amresh Kumar Sinha, Advocate, AOR No. 7080 who had filed the Interlocutory Application application after obtaining no objection from Shri Ajay Kumar Sinha, Advocate, AOR No. 1191 on 31.11.2021 one of the attesting advocate on main bail application. (ii) Sombir, pairvikaar whose detail of address is given in the affidavit to the Interlocutory Application (iii) R.K. Jha, learned Oath Commissioner, Patna High Court. (iv) Birendra Kumar, who has sworn the affidavit to the main Cr. Misc. application. (v) Advocate clerk Sri Niwas Kumar, whose identity is not clear from the affidavit. It appears that he is the advocate's clerk, having Registration No. 2052 of 2021 and A/C to Ms. Preety Kunwar, Advocate. (vi) Shri Ajay Kumar Sinha, Advocate, AOR



No. 1191, (vii) Indrajeet Kumar, Advocate Clerk to Jeetendra Narayan, Advocate, bearing Registration No. 1618 of 2021 as well as, (viii) Jeetendra Narayan, Advocate on record who all have played active role in filing forged affidavit.

14. The fact what has emerged before this Court is that Sri Amresh Kumar Sinha, learned counsel appearing for the petitioner has in a planned manner produced before this Court one Alakh Mahto, Resident of Village- Singhaul, P.O.- Odhanpur, P.S. Mufassil, District- Nawada (Bihar) who has impersonated one Bindu Mahto, whose name appear in the marriage card as father of the bride Ansu Kumari, has been identified by the complainant, Dinesh Prasad Singh in the Court in presence of Sri Amresh Kumar Sinha, learned counsel for the petitioner, Smt. Sangita Kumari Singh, learned A.P.P. for the State, Sri Ajit Kumar, learned A.P.P. for the State, who were all directed to be present in the chamber during the course of inquiry along with court master Sri Anil Kumar Ravidas.

15. Learned counsel appearing on behalf of the petitioner has deliberately and knowingly produced an imposter whose identity has been identified by the complainant and has also not abide by the order of this Court by which he was directed to implead the victim girl as O.P. No.2 and the



complainant was directed to be added as O.P. No. 3 by impleading only complainant as O.P. No. 2.

16. The Apex Court in **Dhananjay Sharma Vs. The State of Haryana, (1995) 3 SCC 757** the Court found tampering of court records and production of false documents. The Court observed:

“Any conduct which has the tendency to interfere with the administration of justice or the due course of judicial proceedings amounts to the commission of criminal contempt. The swearing of false affidavits in judicial proceedings not only has the tendency of causing obstruction in the due course of judicial proceedings but has also the tendency to impede, obstruct and interfere with the administration of justice. The filing of false affidavits in judicial proceedings in any court of law exposes the intention of the party concerned in perverting the course of justice. The due process of law cannot be permitted to be slighted nor the majesty of law be made a mockery of by such acts or conduct on the part of the parties to the litigation or even while appearing as witnesses. Anyone who makes an attempt to impede or undermine or obstruct the free flow of the unsoiled stream of justice by resorting to the filing of false evidence, commits criminal contempt of the court and



renders himself liable to be dealt with in accordance with the Act. Filing of false affidavits or making false statement on oath in courts aims at striking a blow at the rule of law and no court can ignore such conduct which has the tendency to shake public confidence in the judicial institutions because the very structure of an ordered life is put at stake. It would be a great public disaster if the fountain of justice is allowed to be poisoned by anyone resorting to filing of false affidavits or giving of false statements and fabricating false evidence in a court of law. Filing a false / wrong affidavit was thus treated as contempt of court.”

17. In **Chandra Shashi v. Anil Kumar Verma**, (1995) 1 SCC 421, the Hon'ble Supreme Court held:

“Anyone who takes recourse to fraud, deflects the course of judicial proceedings; or if anything is done with oblique motive, the same interferes with the administration of justice. There being no decision of this Court (or for that matter of any High Court) to our knowledge on this point, the same is required to be examined as a matter of first principle. Contempt jurisdiction has been conferred on superior courts not only to preserve the majesty of law by taking appropriate action against one howsoever high he may be, if he violates court's order, but



also to keep the stream of justice clear and pure so that the parties who approach the courts to receive justice do not have to wade through dirty and polluted water before entering their temples. To enable the courts to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, prevarication and motivated falsehoods have to be appropriately dealt with, without which it would not be possible for any court to administer justice in the true sense and to the satisfaction of those who approach it in the hope that truth would ultimately prevail. The word 'interfere', means in the context of the subject, any action which checks or hampers the functioning or hinders or tends to prevent the performance of duty, obstruction of justice is to interpose obstacles or impediments, or to hinder, impede or in any manner interrupt or prevent the administration of justice. Now, if recourse to falsehood is taken with oblique motive, the same would definitely hinder, hamper or impede even flow of justice and would prevent the courts from performing their legal duties as they are supposed to do. If the publication be with intent to deceive the court or one made with an intention to defraud, the same would be contempt, as it would interfere with administration of justice. It would, in any case, tend to interfere with the same. This would definitely be so



if a fabricated document is filed with the aforesaid *mens rea*. In the case at hand the fabricated document was apparently to deceive the court; the intention to defraud is writ large.”

18. Filing a false affidavit and filing forged document, as per law laid down by the Apex Court is nothing but an illegal act, interfering with the proper administration of justice, which prima facie makes out a case of criminal contempt. In the present case there is not only a mere lapse but all the above named persons have fabricated document which has been consciously used in the present proceeding seems to be have not overlooked by the counsel Sri Amresh Kumar Sinha appearing for the petitioner. His conduct in playing active role in forging document by filing false affidavit and presenting Alakh mahto, Resident of village- Singhaul, P.O- Odhanpur, P.S. Mufassil, District-Nawada (Bihar) who had impersonated one Bindu Mahto of the same village cannot be denied. In this regard, a thorough enquiry is required to be conducted to establish the fact that Bindu Mahto and Alakh Mahto which prima facie appears to this Court that they are two different persons may be of the same village.

19. The Apex Court, in case of Ram Avtar Shukla Vs Arvind Shukla reported in 1995 Supplementary Volume 2 130



has encountered with the forged and fabricated order of the Court was used in judicial proceeding and in this background Supreme Court said that there are two courses open to us that is either to file complaint under Section 197 Cr.P.C. or to initiate contempt proceedings.

20. The Court below is directed to proceed against all the persons whose name has figured in course of the present proceeding to lodge a criminal case in accordance with law who have the tendency to undermine the dignity of the Court by fabricating the evidence as part of the pleading, which forms the Court record, to gain unfair advantage for obtaining provisional bail to the petitioner.

21. I deem it appropriate to direct the Registrar General to take appropriate necessary legal action in accordance with law to lodge criminal complaint under Section 340(1) Cr.P.C. after prima facie being satisfied that the above named persons who have played active role in forging document executed the affidavit in the present case on behalf of the accused petitioner Ravindra Kumar, have tried to obstruct the due course of justice and they have the tendency of undermine the dignity of the Court by fabricating the evidence as part of the pleading, which forms the Court record and have



impersonated to gain unfair advantage for obtaining provisional bail.

22. The conduct of the Advocate on Record, Sri Amresh Kumar Sinha as well as the Oath Commissioner, R.K. Jha is contemptuous and contumacious or blameworthy and for such conduct this Court would have initiated the proceeding of contempt against them. The advocates hold the status of “Officer of the Court” there they also have right to represent their clients with complete professional freedom and to the best of their ability. They play a vital role in the dispensation of justice as they are an important link between the Bench and the public at large. This noble profession has long standing traditions of service to masses not for money or gains alone but their contribution to maintain the dignity of judicial dispensation as well as values of advocacy. The two advocates have not only undermined the dignity of law but have lowered the majesty of the Court in the eye of public and the entire institution.

23. This Court to protect majesty of law and professional standards and etiquette, in light of judgment passed in case of **Supreme Court Bar Association Vs Union of India** reported in **AIR 1998 SC 1895**, refers this matter to the Bar Council of India, which is a statutory body to initiate



disciplinary action for professional misconduct committed by the two advocates and may punish on the basis of evidence laid before the disciplinary committee of the Bar Council after affording an opportunity of hearing. The delinquent advocate may be suspended from practice for a specified period or even removed from the rolls of the advocate or impose any other punishment as provided under the Act. The Bar Council which performs a public duty and is discharged with the obligation to protect the dignity of the profession and maintain professional standards and etiquette is also obliged to act in aid of this Court uninfluenced by the position of the contemnor advocate whose tendency to interfere with due administration of justice.

24. The Registrar General is directed to separately send the entire record of the case to the Court below for taking necessary legal action against the accused persons and to the Chairman, Bar Council of India for taking appropriate decision to initiate disciplinary action for professional misconduct which has been conducted by Sri Amresh Kumar Sinha and R.K. Jha Advocate cum Oath Commissioner in accordance with law.

25. Accordingly, the present bail application is dismissed with above observation and direction.

26. I make it clear that nothing stated in this order



shall affect the pending proceedings before the learned Additional District and Sessions Judge-Ist, Nawada in connection with Sessions Trial No. 210 of 2021 arising out of Rajauli P.S. Case No. 249 of 2012.

27. Let a copy of this order be communicated to the Chairman, Bar Council of India as well as Chairman, State Bar Council, Bihar.

(Purnendu Singh, J)

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