

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 35581 of 2020

Arising Out of PS Case No.-19 Year-2018 Thana- MUFFASIL District- West Champaran

1. Rinku Padit, aged about 30 years, Male.
2. Dhanesh Padit @ Dhanesh Kumar, aged about 24 years, Male.
Both sons of Sri Ramnath Padit, and residents of Village - Lalgarrh, PS- Bettiah, Muffasil, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate
For the State : Mr. Md. Arif, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 25-06-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Umesh Chandra Verma, learned counsel for the petitioners and Mr. Md. Arif, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioners apprehend arrest in connection with Bettiah Muffasil PS Case No. 19 of 2018 dated 15.01.2018, instituted under Sections 341, 323, 448/34 of the Indian Penal Code and 8 and 14 of the Protection of Children from Sexual Offences Act, 2012.

4. The allegation against the petitioners, who are brothers, is that they used to tease the daughter of the informant, who is full sister of the mother of the petitioners, and used to also take her pictures from their mobile whenever the daughter went out of the house and on 12.05.2021 at about 9:30 AM, the



petitioners are said to have spoken dirty rhymes and the informant upon outcry went and forbade them not to do so and finally on 16.09.2017, it is alleged that at 12 noon, when the informant had gone to Bettiah, her daughter being alone, the petitioners had entered the house, lifted her and threw her on the cot and had tried to outrage her modesty but witness no. 3 had arrived on alarm and villagers had assembled due to which the petitioners are said to have fled away.

5. Learned counsel for the petitioners submitted that the petitioners are aged 30 years and 24 years and they are next door neighbours as there was partition between the family of the petitioners and the informant and the informant being full sister of their mother, due to such rivalry relating to land and its demarcation, the present case has been filed. It was submitted that though after demarcation and *Panchayati*, a settlement was reached but again in the year 2018, there was dispute for which a proceeding under Section 107 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') was initiated. It was submitted that even otherwise it is unbelievable that two brothers, that too aged 30 and 24 years, would together take photographs and then threaten to make it viral, as merely taking of photographs and making it viral does not serve any purpose as it cannot be



used as any blackmailing. Further, it was submitted that though the occurrence is said to have taken place on 16.09.2017, but no police case was filed and after 16 days on 22.09.2017, a complaint case was filed. It was submitted that there was neither any statement of the girl recorded under Section 164 of the Code nor any medical examination done, which also raises serious doubts with regard to authenticity of the allegations. It was submitted the petitioners have no criminal antecedent.

6. Learned APP submitted that the allegation against the petitioners is that they had taken photographs of the minor daughter of the informant and further that they had also tried to outrage her modesty. However, he could not reply to the submission of learned counsel for the petitioners that no police case was filed and only after 16 days, a complaint was filed and further that no statement was ever recorded under Section 164 of the Code or medical examination done.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, 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 6th Additional Sessions Judge-cum-Special Judge, under POCSO Act in Bettiah Muffasil PS Case No. 19 of 2018, 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 petitioners, (ii) that the petitioners and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners and (iii) that the petitioners shall co-operate with the police/prosecution and the Court. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of their bail bonds.

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

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

(Ahsanuddin Amanullah, J.)

P. Kumar

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