

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2512 of 2022

Arising Out of PS. Case No.-120 Year-2021 Thana- MAHILA P.S. District- Patna

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PRAKASH KUMAR @ CHINTU Son of Uday Kumar Resident of Village-
Dadupur, P.O.- Bikram, P.S.- Bikram, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Mritunjay Kumar, Advocate
For the Informant	:	Mr. Ramanath Kumar, Advocate
For the Opposite Party/s	:	Mr. Nirmal Kumar Sinha, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 28-06-2022 Heard learned counsel for the petitioner, the informant
and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Section 376 of the Indian Penal Code, Sections 3 and 4 of the Dowry Prohibition Act read with Section 67 and 67A of the Information Technology Act.

Learned counsel for the petitioner submits that the petitioner is a person with clean antecedent.

The informant alleges that she was studying in a rented house of her sister when she came in contact with a distant relative (petitioner) and slowly they fell in love, it is next alleged that they used to take out time and stayed like husband and wife as by way of an affidavit they had accepted the fact



that they are married. It is further alleged that the petitioner even put vermilion on the head of the informant at one Vandevi temple, it is next alleged that the petitioner on the pretext of introducing her to his parents brought her to Khagaul and kept her in a hotel where also he established physical relation and made obscene video. Further, when the parents and sister of the petitioner came to know about their relationship, they started demanding Rs.20,00,000/- by way of dowry for giving legitimacy to the marriage and when the informant refused she was tortured and threatened that the obscene video shall be made viral.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is next submitted that the informant is in habit of blackmailing males and the informant chooses her prey well. It is next submitted that in the FIR, it is alleged that the petitioner is distantly related, as such, from the beginning it was clear that being distantly related they cannot enter into a matrimonial alliance. It is next submitted that the petitioner vehemently denies that he ever promised to marry the informant and as far as allegation of recording obscene video is alleged the same is far from truth, as the petitioner in the mildest of his dreams



cannot think of indulging in such an act and, thus, expose himself also. It is also submitted that the petitioner right from the beginning had made it clear that since they are related though distantly, hence, their relationship does not have any future. Learned counsel next submits that both the petitioner and the informant are adults and were well aware of the consequences of their act. It is further submitted that if two consenting adults by their own volition and by their own choice come together and establish physical relationship and thereafter when it is alleged that the said physical relationship was entered on the pretext of marriage will it amount to rape and for this proposition relies on a judgment reported in 2019(4) PLJR (SC)71 Pramod Suryabhan Pawar V. The State of Maharashtra & Anr. wherein the Hon'ble Supreme Court has distinguished sexual relation based on false promise to marry and a breach of promise to marry, it was held that false promise is a promise not given in good faith, with no intention to adhere to at the time it was given, further held that offence of rape is not constituted when it was only a breach of promise, thus, it is submitted that in the present case the petitioner at the outset had made clear that their relationship has no future, since they are distantly related, hence, question of giving promise does not arise.



Learned counsel next submits that it absolutely does not stand to reason that the informant being an adult was well aware of the fact that in the event if she enters into physical relation with a male in absence of marriage what would be the consequences. It is next submitted at the cost of repetition that it appears that the informant is in habit of blackmailing and also choosing her prey well and for that the learned counsel relies on Annexure-3 to the anticipatory bail application to submit that the informant had already married with one Vikash Mishra on 10.12.2020 and for which an affidavit was sworn before the Notary with photograph of the informant and Vikash Mishra. Learned counsel for the petitioner next submits that the informant has falsely implicated the entire family members of the petitioner including his unmarried sister by alleging that when they came to know about the relationship they started demanding dowry. Learned counsel categorically submitted at the cost of repetition that no video was ever made and whatever happened, happened with consent of the informant.

Learned A.P.P. for the State and learned counsel for the informant opposed the prayer for anticipatory bail of the petitioner and submit that the petitioner on the pretext of marriage established physical relationship and later resiled, as



such, an offence under Section 376 of the Indian Penal Code is made out.

Learned counsel for the petitioner rebuts the submission of the learned counsel for the informant and submits that from perusal of the allegation as alleged in the FIR, it would manifest that the informant and the petitioner came together prior to 07.11.2020 and thereafter it is alleged that on 07.11.2020 they went to Civil Court, Danapur and there an affidavit was prepared in which both accepted themselves as husband and wife. It is next alleged that in between 21-23 November, 2020, the petitioner had taken her to Khagaul where he also established physical relation, it is, thus, submitted that the petitioner and the informant were indulging in physical relation at least from 07.11.2020 and the present case came to be instituted on 23.09.2021, thus, it absolutely does not stand to reason that the informant was not aware that what she was doing and whether the petitioner would marry her or not. It is next submitted that the petitioner had never promised the informant that he will marry and the informant for reason best known to her has made a false story when she herself alleges that petitioner is distantly related to her.

Be that as it may, considering the submissions made



by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Patna Mahila P.S. Case No. 120 of 2021, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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