

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22706 of 2015

Arising Out of PS. Case No.-405 Year-2010 Thana- FATUA District- Patna

Chandan Kumar @ Ritesh Kumar @ Ritesh Kumar Sharma Son Of Shaina
Singh @ Paras Nath Sharma Resident Of Mohalla - Ganjpar, P.S. Phulwari,
District – Patna Petitioner

Versus

1. State Of Bihar and
 2. Muni Devi Wife of Chamaru Sao resident of Rashtriyaganj, Police Station -
Phulwari, District - Patna
- Opposite Party

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar, Advocate
For the Opposite Party/s : Mr.Kr. Ranjit Ranjan Addl Public Prosecutor

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

7 08-12-2022 Heard learned counsel for the petitioner and the State.

Also heard Mr. Amaresh Kumar, Advocate representing
opposite party no.2.

Pursuant to issuance of notice to the informant by this
Court vide order dated 4.9.2019, opposite party no.2, who
happens to be younger daughter of the informant, has filed
vaklatnama. A petition of jointness has also been filed by
learned counsel for the petitioner stating therein that said notice
has been accepted and received by her younger daughter who is
living with opposite party no.2.

This application has been filed for quashing order
dated 28.2.2015, passed by Additional Sessions Judge X, Patna
in Cr. Revision No.719 of 2012/3508 of 2014 by which the



Court below dismissed revision application filed by the petitioner against order taking cognizance dated 25.6.2012.

Prosecution case in brief is that one Muni Devi, opposite party no.2 gave a written complaint to officer in charge, Fatuha Police Station stating therein that on 26.9.2010 her 16 years old daughter left the house without informing any one for which SD Entry No.1119 was made on 26.9.2010 with respect to her missing. It is further alleged that informant in course of search came to learn that her daughter went to attend call of nature. In the meantime, the petitioner and other accused persons abducted her with a view to marry.

It is submitted on behalf of the petitioner that the petitioner and the daughter of the informant (opposite party no.2) were close to each other and were in deep love which relationship was not acceptable to the family of opposite party no.2. as such, both of them left the house and solemnized marriage. During investigation, opposite party no.2 was recovered and was produced before the Court of Additional Chief Judicial Magistrate, Patna, where her section 164 Cr.P.C. statement (Annexure 2) was recorded in which she disclosed her age as 19 years. She stated that she was in love with the petitioner and she married him in the temple at Jamui and



presently she is living with the petitioner as husband and wife in Deoghar. It is further submitted that on 20.8.2011 she filed an application (Annexure 3) in the Court of Additional Chief Judicial Magistrate, Patna City expressing her willingness to live with her husband and in-laws and made prayer that she may be allowed to go to her husband's house. Taking note of the facts as also the section 164 Cr.P.C. statement of opposite party no.2, learned counsel vide order dated 28.8.2011 (Annexure 4) assessed her age to be 18 to 19 years and she was released in favour of the petitioner.

Learned counsel for the petitioner further submits that section 366 IPC would only be attracted in the case where there is a forceful compulsion of marriage by abducting or by inducing a woman and secondly, offence would not be made out once the abductee has vividly stated in her Section 164 Cr.P.C. statement that she was in love with the petitioner. In support of the submission, reliance is placed on a decision of the Hon'ble Supreme Court rendered in case of Mafat Lal & another Vs. The State of Rajasthan, passed in Criminal Appeal No.(s) 592 of 2022(arising out of SLP(CRL) No. 1806 of 2021. Learned counsel submits that in such a situation, continuance of criminal case would be abuse of process of the court and as such



impugned orders as well as the FIR and the entire proceedings with respect to the petitioner may be quashed.

While supporting the factual aspect of the matter averred by the learned counsel for the petitioner in the quashing petition as also submissions advanced on behalf of petitioner, learned counsel for opposite party no.2 has filed counter affidavit. It has been stated by opposite party no.2 that petitioner had not kidnapped her rather she called him to solemnize marriage. Presently, she is living with the petitioner as husband and wife in Deoghar and leading a happy conjugal life. She has also stated that her mother, who is informant in this case, does not want her well being because she (opposite party no.2) married the petitioner against her wish in a different caste.

Considering the facts and circumstances of the case, materials collected during course of investigation, rival submissions of the parties and the aforesaid judgment of the Hon'ble Apex Court, this Court finds that the ends of justice would be secured by quashing the FIR and all consequential proceedings that arise therefrom.

Accordingly, this petition is allowed. Impugned orders dated 4.9.2019 and 28.2.2015 are set aside and the entire



proceedings arising out of Fatuha PS Case No.405 of 2010
registered for the offence punishable under sections 366A of the
IPC and all consequential proceedings are hereby quashed.

(Prabhat Kumar Singh, J)

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