

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40342 of 2015

Arising Out of PS. Case No.-31 Year-2014 Thana- ABADPUR District- Katihar

Md. Mojibur Rahman Alias Mazir S/o Bajlur Rahman Resident of Village
Bhawanipur, Police Station Abadpur, District Katihar. Petitioner/s
Versus

1. State Of Bihar
2. Asma Khatoon W/o Md. Usman Resident of Village Bhawanipur, P.S.
Abadpur, District Katihar.
... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md. Qumrul Hoda, Advocate
For the Opposite Party/s : Mrs.Asha Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 13-03-2023 Heard learned counsel for the petitioner and the State.

The present petition has been preferred for quashing of the order dated 11.3.2015 in Abadpur P.S. Case No. 31 of 2014 under sections 363, 366, 376 of the Indian Penal Code passed by learned Judicial Magistrate-1st Class, Katihar.

As per the allegation in the FIR, the informant alleged that while her daughter had gone out to attend call of nature, she was kidnapped by the accused persons.

Subsequently, the victim girl after recovery made statement under section 164 of the Cr.P.C. in which she alleged rape by the named accused whereafter she was left near a bridge from there, the police brought her home.

Learned counsel for the petitioner submits that neither in the FIR nor in the victim girl's statement under section 164 of the Cr.P.C. his name cropped up.



However, during the investigation, the allegation came that he was in telephonic conversation with the accused persons and accordingly he has been clubbed in the category of the accused persons and as such he wants quashing of the FIR.

Learned APP on the other hand straight away took this Court to the order dated 11.3.2015 passed by the learned Judicial Magistrate-1st Class, Katihar in which it has been observed as follows:

"Record has put up today on the point of hearing on cognizance. Heard. Perused the record. FIR has been lodged u/s-363, 366 IPC against accused person namely Semi, Sahid, Mansoor Master. Accused Soyeb and Taiyeb has been produced from Katihar Jail. Charge sheet has been submitted u/s-363, 366 I.P.C. against the accused persons named in column no.-11 of the charge sheet namely Soyeb, Taiyeb and Mazir. The police found innocent accused



persons namely Semi, Sahid, Mansoor Master.

Perused the F.I.R., charged sheet as well as case diary, it appears that the victim girl and other witnesses & informant examined during investigation have supported the prosecution of the case even of rape and there are enough materials available on the record against accused persons namely Semi, Sahid, Soyeb, Taiyeb and Mazir to make out the prima facie case for the offences U/S- 363,366,376 of IPC except accused Mansoor Master who is hereby discharged.

Hence, cognizance is hereby taken for the offences punishable u/s- 363,366,376 IPC against the accused persons namely Semi, Sahid, Soyeb, Taiyeb and Mazir.



This case is triable by court of sessions. The record is accordingly kept in personal file for its commitment. Accused Soyeb and Taiyeb has been send back to Katihar Jail. Issue summons to the accused persons namely Semi, Sahid and mazir. Put up on 25.3.15 for appearance."

This Court finds force in the submission of the learned APP and having gone through the order dated 11.3.2015, the Court find enough material against this petitioner to proceed while discharging one Mansoor Master.

This is not an appropriate stage where any interference is required and/or any relief can be granted to the petitioner herein.

The petition accordingly stands dismissed.

(Rajiv Roy, J)

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