

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45117 of 2015

Arising Out of PS. Case No.-2727 Year-2013 Thana- COMPLAINT CASE District- Araria

Md. Farog S/o Md. Manir Resident of Village- Farsadangi, P.S. Palasi District
Araria.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Husneda Begam D/o Matiur Rahman Resident of Village- Farsadangi, P.S.
Palasi District Araria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Prasad Singh

For the Opposite Party/s : Mr.Rajendra Nath Jhaapp

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 20-07-2023 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The present application has been filed for quashing
the order dated 17.07.2014 passed by the learned J.M. 1st Class,
Araria in Complaint Case No. 2727C/2013 whereby and
whereunder the learned Court below has taken cognizance under
Section 8 of the Protection of Children from Sexual Offence
Act, 2012.

The prosecution story in short is that the petitioner is
the *Dewar* of the sister of the Complainant who used to visit her
house and also give her gifts on the false promise of marriage.
On the occasion of Eid, the petitioner took her for shopping and



committed rape upon her against her will. Later on, the petitioner denied to marry the complainant. Hence, this case.

It has been submitted by learned counsel for the petitioner that the opposite party No. 2 is not appearing and co-operating in the Special Court and because of her non-appearance, the petitioner is facing this case since 2013 which arises out of a compliant case.

If the opposite party No. 2 is not appearing in the Court below then the Magistrate should have proceeded in the matter and dismissed the complaint case. It should not be kept pending for appearance of the complainant.

In view of the above, this application is disposed of with a direction to the Magistrate concerned to pass necessary orders in accordance with law within a month from the date of receipt/production of a copy of this order.

Let a copy of the order be communicated to the District Judge, Araria through FAX and e-mail forthwith.

(Sandeep Kumar, J)

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