

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61931 of 2017

Arising Out of PS. Case No.-1638 Year-2016 Thana- KATIHAR COMPLAINT CASE
District- Katihar

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1. Sk. Islam, son of Late Liyakat
 2. Bibi Mustariya, wife of Sk. Islam
 3. Sk. Subhan son of Sk. Ramu @ Md. Islam All residents of Village- Dhabaul, P.S. Pranpur, District- Katihar.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Jaigun wife of Sk. Ispak, resident of Village- Mariya, P.S.- Azam Nagar, District- Katihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimal Kumar

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 19-12-2023 1. Heard learned counsel for the petitioners and learned APP.

2. Learned counsel for the petitioners submits that the present quashing application has been filed seeking quashing of the order dated 15-9-2017 passed by learned Sessions Judge, Katihar, in S.T. No. 182 of 2017 arising out of Complaint Case No. 1638 of 2016, whereby the application filed on behalf of the petitioners under Section 227 of the Cr.P.C seeking discharge has been rejected.

3. The learned counsel for the petitioners submits that initially Azam Nagar P.S. Case No. 57 of 2016 dated 5-3-2016



was instituted under Sections 323, 341, 366A and 34 of the IPC by one Jaigun. In the FIR, it was alleged that Sheikh Subhan and Md. Islam forcefully kidnapped her minor daughter aged about 16-17 years, for the purposes of marriage, on 16-2-2016. The learned counsel submits that from perusal of the FIR, it would manifest that the date of occurrence is 16-2-2016, and the FIR has been instituted on 5-3-2016, i.e., after a considerable delay.

4. It is next submitted that police, after threadbare investigation, submitted a final form exonerating the accused persons from the allegations as alleged in the FIR. Thereafter, the learned counsel for the petitioners draws the attention of the court to Annexure-3 to the quashing application to submit that the daughter of Jaigun, Tarana Khatoon's statement was also recorded under Section 164 Cr.P.C, wherein she had disclosed her age as 18 years, and had stated that her parents intended to get her married to a differently abled person, to which she was not ready, as such, she, on her own volition, left the house and went to her bhabhi's place. Further, she also stated that Sheikh Subhan has been falsely implicated in the present case.

5. Learned counsel submits that thereafter the police submitted final form, but on protest, the learned trial court took cognizance of the offence under Section 366 of the IPC against



Md. Subhan, Sheikh Islam, and Bibi Mustariya, wife of Sheikh Islam. It is next submitted that petitioner No. 2 is own sister of Jaigun and own *mausi* of Tarana Khatoon, who had denied the case of the prosecution in her statement recorded under Section 164 Cr.P.C.

6. The learned counsel for the petitioners submits that Bibi Mustariya, who is own sister of Jaigun, the informant of the FIR, was not made an accused in the FIR nor in the protest petition, but still, cognizance has been taken against her. It is also submitted that petitioner No.1, who is own *Mausa* of Tarana Khatoon, the alleged victim of the FIR, has been implicated by his own relatives. The learned counsel further submits that since Tarana Khatoon did not support the case of the prosecution, as such, the case be quashed as continuation of the criminal proceedings against the petitioners is nothing but an abuse of the process of the court.

7. The learned counsel, at this stage, fairly submits that out of five prosecutions witnesses, four prosecution witnesses have been examined and only Tarana Khatoon remains to be examined, and she is the most crucial witness.

8. The learned APP, Mr. Chandra Bhushan Prasad, at this stage, rebuts the submission of the learned counsel for the



petitioners and submits that since out of five witnesses, four witnesses have been examined, as such the trial has progressed and only Tarana Khatoon remains to be examined and in the event, if what has been submitted by the learned counsel for the petitioners is true, in that event the learned trial court will appreciate those issues in the trial, as such, court at this stage should be reluctant in interfering in the trial.

9. Considering the submission made by the learned APP, the court is not persuaded to entertain the present quashing application. However, the quashing application is disposed of with a direction to the learned trial court to ensure that the trial is completed within a period of four months, if possible, from the date of receipt/production of a copy of this order.

(Satyavrat Verma, J)

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