

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59441 of 2023

Arising Out of PS. Case No.-249 Year-2021 Thana- BHAGWANPUR District- Vaishali

1. RAHUL KUMAR @ RAHUL KUMAR MAHTO S/o Surilal Mahto Resident of Village-Rampur Asurar, P.S.-Bhagwanpur, District-Vaishali
2. MUKESH MAHTO Son of Surilal Mahto Resident of Village-Rampur Asurar, P.S.-Bhagwanpur, District-Vaishali
3. SURILAL MAHTO @ SURENDRA MAHTO Son of Late Hazari Mahto Resident of Village-Rampur Asurar, P.S.-Bhagwanpur, District-Vaishali
4. BHEEM SAHNI Son of Pradeep Sahni Resident of Village-Piyarma, P.S.-Lalganj, District-Vaishali
5. TUNNI MAHTO Son of Madul Mahto @ Bindeshwar Mahto Resident of Village-Piyarma, P.S.-Lalganj, District-Vaishali
6. SONU MAHTO Son of Late Ramswaroop Mahto Resident of Village-Piyarma, P.S.-Lalganj, District-Vaishali
7. NARAYAN MAHTO Son of Jaldhari Mahto Resident of Village-Piyarma, P.S.-Lalganj, District-Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar
2. GOPAL PRASAD MAHTO Son of Late Raushan Mahto Resident of Village-Rampur Asurar, P.S.-Bhagwanpur, District-Vaishali

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amarendra Nath Verma, Advocate
For the Opposite Party/s : Mr. Gauri Shankar Gupta, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 06-11-2023

Heard learned counsel for the petitioners, learned A.P.P.

for the State and learned counsel for the opposite party no. 2.

2. The present quashing application has been filed seeking quashing of the order dated 01.04.2023 passed by the learned 1st Additional Chief Judicial Magistrate, Vaishali at Hajipur in connection with Bhagwanpur P.S. Case No. 249 of 2021



whereby cognizance of the offences under Sections 363, 366 and 376 of the Indian Penal Code has been taken against the petitioners.

3. Learned counsel for the petitioners submits that the informant alleges that on 13.10.2021 at about 11:00 a.m. his daughter, aged about 19 years, was enticed away by the petitioner no. 1 and he came to know that she was taken to Uttar Pradesh and mobile number of petitioner no. 1 is 9555775751. Learned counsel for the petitioners submits that petitioner no. 1 and the daughter of the informant, who is major, were in love and they fled away on their own volition. It is further submitted that this perhaps explains why the FIR was instituted after a delay of 15 days. It is next submitted that the statement of the victim was recorded under Section 164 Cr.P.C. wherein she has supported the case of the prosecution but has not alleged that she was sexually assaulted. It is submitted that being next door neighbour, the petitioner no. 1 and the victim fell in love, they fled away and when they returned under the parental pressure she gave her statement recorded under Section 164 Cr.P.C. but from the tenor of her statement recorded under Section 164 Cr.P.C., it would manifest that she has tried to save the petitioner no. 1 as she does not allege that she was sexually assaulted. It is further submitted that the parties have even



compromised and the informant and the victim does not intend to pursue the case.

4. Learned counsel appearing for the opposite party no. 2 concurs with the submission of the learned counsel for the petitioners and submits that he has instruction to make submissions that the opposite party no. 2 is not opposing the quashing application rather supports the contention of the learned counsel for the petitioners.

5. Considering the submissions made by the learned counsel for the parties jointly, the order dated 01.04.2023, passed by the learned 1st Additional Chief Judicial Magistrate, Vaishali at Hajipur, in connection with Bhagwanpur P.S. Case No. 249 of 2021, whereby cognizance of the offences under Sections 363, 366 and 376 of the Indian Penal Code against the petitioners has been taken, is hereby quashed.

6. Accordingly, this application is allowed.

(Satyavrat Verma, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	06.11.2023
Transmission Date	06.11.2023

