

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42582 of 2016

Arising Out of PS. Case No.-48 Year-2014 Thana- KRITYANAND NAGAR District- Purnia

1. Sushil Kumar and Anr S/o. Kameshwar Prasad Mahto, Resident of Villlage- Baniya Patti, P.S.- K.Nagar, District- Purnia.
2. Kavindra Mahto @ Kavendra Mahto, S/o. Satya Narain Mahto, Resident of Villlage- Jawahar Nagar, Daini, P.S.- K.Nagar, District- Purnia.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Rangina Devi, D/o. Pathlu Sharma, Resident of Villlage- Jawahar Nagar, Daini, P.S.- K.Nagar, District- Purnia.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Chandra Mauli Chaurasia
For the State	:	Mr. Jharkhandi Upadhyay, APP
		Mr. Mithlesh Kumar Khare, APP
For the O.P.	:	Mr. Amarnath Singh, Advocate
		Mr. Ram Prawesh Kumar Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 25-04-2023 This application has been filed for quashing the order dated 28.05.2016 passed by the learned Additional Sessions Judge-1st Purnea in Sessions Trial No. 358 of 2015 arising out of K. Nagar P.S. Case No. 48 of 2014 by which learned Court below has been placed to reject the petition dated 28.09.2015.

The prosecution story in short is that “ On 13.11.2013, One Rangina Devi filed a Complaint Case No. 3679 of 2013 before the learned C.J.M. Purnia alleging that on 11.11.2013 at about 6 P.M., while the complainant-informant was in her maika and her mother had gone to village shop for purchasing house



articles. In the meantime, the accused persons came in her court yard and accused petition no. 1 asked the complainant that where is her mother? On this the complainant said that her mother had gone to the shop for purchasing house articles and on this petitioner no. 1 asked that complainant to bring *Kajrauti* from room in order to take L.T.I; and thereafter when complainant went to bring *Kajrauti*, the accused petitioner entered in the house and caught hands of the complainant and committed rape with her against her will forcibly and the accused petitioner no. 2 remained standing in the court yard and after committing rape the petitioner no. 1 wanted to flee away from there but the complainant caught hold his cloth on which the accused petitioner no. 2 pushed her on the ground and took away petitioner no. 1 from there and in the meantime on the *Halla* of the complainant, her mother, neighbour Dhirendra Mahto and the father of the complainant and others came thereby running and saw the accused persons fleeing away from the house and thereafter a Panchaiti was also held by the mother of the complainant on the next day of villagers in which the accused persons did not come and thereafter the complainant along with her mother went to police station on 12.11.2013 at 1 PM to lodge F.I.R. but the *Daroga* did not lodge the case under



the influence of the accused persons and hence the complainant filed the instant complainant case against the petitioners.”

Learned counsel for the petitioners submits that there is no medical examination and apart from the victim, no witness has supported the occurrence. There are cases between the parties which points to false implications.

Learned counsel for the opposite party no. 2 has submitted that during investigation, the petitioner did not point out these facts to the I.O. on the litigation between the parties and the informant has supported the factum of rape.

He further submits that there is a strong suspicion and there is *prima facie* case against the petitioners which warrants Trial of the petitioners.

I have gone through the impugned order passed by the learned Trial Court which is a detailed order by which the learned Trial Court has considered the application for discharge of the petitioners and after discussing the materials available on record, the Trial Court has come to finding that the case requires trial.

Even if there is a strong suspicion, the petitioner has to face Trial.

In view of the law laid down by the Hon’ble Supreme



Court in the case of *State of Bihar vs Ramesh Singh 1977 SCC*
(4) 39, this application is dismissed.

(Sandeep Kumar, J)

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