

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.448 of 2017

Arising Out of PS. Case No.-99 Year-2013 Thana- BITHAN BAZAR District- Samastipur

Pappu Thakur son of Shree Lakshmi Thakur, resident of Village- Belahi, P.S.-
Bithan, District- Samastipur Bihar. Petitioner/s

Versus

The State of Bihar. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mira Kumari, Adv.

For the Respondent/s : Mr. Sri Anant Kumar, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 14-03-2023

Heard learned counsel for the petitioner and
learned counsel for the State.

The present Cr. Revision has been filed to set aside
the order dated 08.03.2017 passed in Bithan P.S. Case No. 99 of
2013 (G.R. No. 833/13 - T.R. No. 149 of 2017), under Section
239 of Code of Criminal Procedure by which the learned
magistrate refused to discharge the accused petitioner.

Counsel for the petitioner submits that petitioner
was accused of Bithan P.S. Case No. 99 of 2013 lodged under
section 365/366/34 of the Indian Penal Code, in which the
informant was the father of the victim.

Counsel for the petitioner submits that after
completion of investigation final report has been submitted by
the police against the petitioner under Section 494 of the I.P.C.,
cognizance was also taken in the said provision.

Counsel for the petitioner submits that the conjoint

reading under Section 494 of the I.P.C. read with Section 198(1) &(2) of Cr.P.C., it transpires that for the purpose of constitution of offence under Section 494 of the I.P.C., ingredient of the section is not available, due to two reasons.

Firstly, the petitioner has not entered into second marriage and secondly, that it is not the husband of the woman, who is aggrieved here, rather informant is the father.

Counsel for the State admits that there is no ingredient under Section 494 of the I.P.C. present in this case.

In the present facts and circumstances, let the order dated 08.03.2017, is hereby set-aside.

The Court below is directed to pass order afresh on the discharge petition considering the ingredients under Section 494 of the I.P.C. and 198(2) of the Cr.P.C. He is also directed to pass a reasoned order within a period of two weeks from the date of production of the order.

(Dr. Anshuman, J.)

ashishsingh/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	