

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37768 of 2018

Arising Out of PS. Case No.-319 Year-2017 Thana- HILSA District- Nalanda

1. Pramod Prasad, s/o Durga Prasad
 2. Renu Devi, w/o Pramod Prasad
 3. Soni Kumari, d/o Pramod Prasad
 4. Saurabh Kumar, s/o Pramod Prasad
 5. Sanny Kumar, s/o Pramod Prasad
- All are residents of Ram Murtinagar, Hilsa, PS-Hilsa, Dist-Nalanda

... .. Petitioner/s

Versus

1. State Of Bihar
2. Shambhu Prasad, s/o Sri Sidheshwar Sao, r/o village-Makrauta, PS-Chiksaura, Dist-Nalanda. At present north of in front of Sub-Divisional Hospital Gate in the house of Dhuri Yadav, Hilsa, PS-Hilsa, Dist-Nalanda.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Mukherjee, Advocate
For the Opposite Party/s : Mr. Chandrasen Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 18-04-2024 1. Heard learned counsel for the parties concerned.

2. The petitioners have challenged the order dated 20.04.2018, passed by learned Additional Chief Judicial Magistrate-I, Hilsa (Nalanda) in Hilsa PS case no. 319 of 2017 (G.R. no. 1096 of 2018, T.R. no. 2160 of 2018), in which, cognizance has been taken against the petitioners under Sections 366(A), 376/34 of the Indian Penal Code.

3. The informant lodged a First Information Report bearing F.I.R. No. 319 of 2017 dated 22.05.2017, stating therein that minor girl of the informant, aged about 15 years was returning from market and near railway crossing, the accused



persons kidnapped the daughter of the informant by forcibly putting her in the Bolero vehicle for the purposes of marriage.

4. Learned counsel for the petitioners, while challenging the order of cognizance, submits that the statement of the victim girl was recorded under Section 164 Cr.P.C., in which, she has stated that she has entered into marriage with petitioner no. 4 Saurabh Kumar. Before the learned Magistrate, the daughter of the informant has disclosed her age as 17 years. He further submits that the statement of the victim girl is paramount and the entire case shall be based upon statement recorded under Section 164 Cr.P.C., as such, there was no material before the learned Magistrate to take cognizance against the petitioner and the learned Magistrate, while taking cognizance, failed to consider the statement of the girl recorded under Section 164 Cr.P.C.

5. I have heard learned counsel for the petitioners and the State. From perusal of the impugned order, it appears that the learned Magistrate, after taking into consideration the F.I.R., charge-sheet, statement recorded in the case diary during the course of investigation, found *prima facie* materials against the petitioners and took cognizance vide order dated 20.04.2018. In her statement under Section 164 Cr.P.C., the victim girl has



stated that she wants to go with her mother and not with the boy.

Annexure-4 is a report of the Medical Board dated 15.06.2017.

The victim girl has stated that she is ready to undergo all the tests and the child in her womb was un-desirable, which she does not want to keep. She also insisted for x-ray test for determination of her age.

6. After going through the facts in entirety and the impugned order, I do not find any reason to interfere with the order taking cognizance, accordingly, this application is dismissed.

(Anil Kumar Sinha, J)

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