

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23591 of 2023

Arising Out of PS. Case No.-81 Year-2022 Thana- BEERPUR District- Begusarai

Manoj Kuwar @ Manoj Kunwar @ Manoj Kumar Son Of Late Ganga Prasad
Kunwar R/O Village- Birpur, P.S.- Birpur, District- Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Hira Devi Wife Of Rajesh Kumar @ Rajesh Singh R/O Village And Post
Office- Birpur, P.S.- Birpur, District- Begusarai, Pin- 851127

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar

For the Opposite Party/s : Mr.Pramod Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 18-03-2024 This application has been filed for quashing the order dated 19.12.2022 passed by learned A.C.J.M.-IV, Begusarai in Birpur P.S. Case No. 81 of 2022 whereby and whereunder learned Magistrate, differing with the final form submitted by the police, took cognizance against the petitioner for the offences under Section 376/34 of the Indian Penal Code and Section 27 of the Arms Act.

2. As per F.I.R., while the informant was returning with her son, this petitioner alongwith three co-accused persons surrounded them and thereafter, on the point of pistol, petitioner took her to an orchard, torn her clothes and tried to commit rape, however; having seen husband of informant and 15-20 villagers,



the accused persons fled away. It is further alleged that this petitioner and co-accused Anoj Kumar had earlier also committed occurrence with her, for which, Birpur P.S. Case No. 67 of 2022 was registered.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. As a matter of fact, the husband and brother-in-law of informant had taken loan of Rs. 1.5 lakh from the petitioner for construction of house and on being asked by the petitioner to refund the same, this false and concocted case has been lodged against this petitioner. The police, after investigation, submitted final form against the petitioner and he was not sent up for trial, however, the learned Magistrate, differing with the same, took cognizance against petitioner. Accordingly, learned counsel for the petitioner assails the order of cognizance.

4. Learned A.P.P. for the State vehemently opposes the prayer for quashing the order of cognizance and submits that there are sufficient materials to take cognizance against this petitioner. It is the case of the informant / O.P.2 that this petitioner after disrobing the informant tried to commit rape and as such, Hon'ble Court may refrain from interfering with the order impugned.



5. Having heard the submissions made on behalf of the parties and materials available on record, this Court is of the opinion that there is no illegality or perversity in the order of taking cognizance.

6. Accordingly, this application stands dismissed.

(Prabhat Kumar Singh, J)

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