

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24943 of 2023

Arising Out of PS. Case No.-83 Year-2017 Thana- BABUBARHI District- Madhubani

Ashok Sahni Son of Bhagalu Sahni R/V- Baruar Babubarhi, PS- Babubarhi,
Dist- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rinku Devi Wife of Malhu Sahni R/V- Baruar, Ps- Babubarhi Dist-
Madhubani

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav

Mr. Ravi Prakash

For the Opposite Party/s : Mrs.Nirmala Kumari,APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 01-04-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing the order dated 27.02.2023 passed in C.R.I. No. 789 of 2017, T.R. No. 1707 of 2022, arising out of Babubarhi P.S. Case No. 83 of 2017, by the learned J.M. 1st Class, Madhubani whereby and whereunder the petition filed under Section 239 of the Cr.P.C. for discharge of petitioner has been rejected.

3. It is submitted on behalf of petitioner that in this case, after investigation, police submitted chargesheet under Section 354 of the Indian Penal Code and learned Court below,



differing with the same, took cognizance under Sections 341, 354, 354(B), 365 of the Indian Penal Code on 06.09.2017. It is next submitted that from perusal of the statement of the witnesses, it appears that no case is made out under Sections 354(B) & 365 of the Indian Penal Code. During course of investigation, no evidence has been collected by the investigating officer regarding allegation under Section 354(B), 365 of the Indian Penal Code, but the learned Court below, without perusing the evidence collected during investigating, took cognizance under Sections 341, 354, 354(B), 365 of the Indian Penal Code. As per statement of the witnesses, there is no evidence regarding kidnapping or abduction of the informant. Petitioner has been falsely implicated in this case due to political rivalry and as such, the impugned order is bad in law and is fit to be quashed.

4. Learned A.P.P. for the State, while opposing the submission made on behalf of petitioner, submits that the learned Court below has rightly passed the impugned order. There are sufficient materials to take cognizance against petitioner and as such, no interference is required by this Hon'ble Court.

5. Heard learned counsel for the parties. At the time of



deciding a petition for discharge, the Court is not required to consider the defence of the petitioner. The Court is only required to apply its judicial mind and consider the materials collected during course of investigation. In this case, the learned Court below has found sufficient materials against this petitioner to frame charge under Sections 341, 354, 354-B & 365 of the Indian Penal Code and has not found any cogent reason to discharge the petitioner under Section 239 of the Cr.P.C. The points raised on behalf of the petitioners are in the realm of defence, which cannot be looked at this stage.

6. Considering the facts and circumstances of this case, this petition is without any merit and is, accordingly, dismissed.

(Prabhat Kumar Singh, J)

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