

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 285 of 2024**

Arising Out of PS. Case No.-24 Year-2019 Thana- MAHILA P.S. District- Bhagalpur

Niranjan Kumar Agrawal Son Of Late Satyanarayan Ram Agrawal Resident
Of Budanath Road, Near Kamla Mandir, Jagdishpur, P.S. -Bhagalpur Town,
District -Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr Mohit Kr Agarwal, Advocate
For the S t a t e : Mr Pranav Kumar, APP

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 25-11-2024

Heard learned counsel for the petitioner as well as the
learned State Counsel.

2 This revision petition has been preferred by the
petitioner being aggrieved with the order dated 02.02.2024 passed
in Sessions Trial No 220 of 2021 whereby and where under the
learned Additional Sessions Judge I, Bhagalpur allowed the
application filed by the prosecution under Section 319 of the Cr P
C and added the name of the petitioner as an accused in the said
sessions trial.

3 The facts of the case are that the FIR was registered on
the basis of written complaint made by the informant in which it is



alleged that co-accused Pramod Tanti was her tenant. He established physical relationship with her on assurance of marriage. Later on, when she asked for marriage, he refused to do so. It was further alleged that on 14.04.2019, on pressurizing for marriage, Pramod Tanti took the informant to the present petitioner where allegedly both Pramod Tanti as well as the present petitioner committed forcible sexual intercourse with the victim-informant. Subsequently, charge sheet has been filed only against Pramod Tanti and the Investigating Officer did not send the present petitioner for trial. The learned Judicial Magistrate has also not taken cognizance against the present petitioner. After examination of PW 5, i.e., the informant-victim, an application under Section 319 of the Cr P C has been filed by the prosecution which has been allowed by the learned trial Court vide its impugned order dated 02.02.2024. Hence, this revision petition.

4 Learned counsel for the petitioner would submit that except the statement of PW 5 (informant), there is no material available against the petitioner for summoning him as an accused. He further submits that the power under Section 319 of the Cr P C is a discretionary power which should be exercised only in those cases where the circumstances of the case so warrant, as held by the Supreme Court in the case of Hardeep Singh -Versus- State of



Punjab & Others, (2014) 3 SCC 92. Since, in the present case, there is no any material against the petitioner except the statement of the victim, the impugned order is not sustainable and is liable to be set aside.

5 Learned State Counsel opposes the argument advanced by the learned counsel for the petitioner and submits that considering the evidence available on record, the learned trial Court rightly allowed the application filed by the prosecution under Section 319 of the Cr P C.

6 I have heard both the counsel. Perused the impugned order as well as the material available on record.

7 Undisputedly, in the FIR, categorical allegation has been made by the informant against the present petitioner with regard to the committal of rape by him also on the date of incident, i e, on 14.04.2019. In her statement recorded under Section 164 of the Cr P C also, she deposed accordingly. However, the charge sheet has been filed only against co-accused Pramod Tanti. After framing of charge, the statement of victim has been recorded as PW 5. In her Court statement, she categorically stated that on the date of incident, i e 14.04.2019, the present petitioner also raped her along with co-accused Pramod Tanti. If the above statement of



the victim goes unrebutted, then the petitioner would lead to conviction.

8 Therefore, in the considered opinion of this Court, there is sufficient material available on record for summoning the present petitioner under Section 319 of the Cr P C to add him as an accused in the said sessions trial.

9 Resultantly, I do not find any infirmity or illegality in the impugned order passed by the learned Court below.

10 Accordingly, this revision petition is dismissed at the stage of admission itself, having no merit.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.11.2024
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