

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29426 of 2023

Arising Out of PS. Case No.-234 Year-2020 Thana- KONCH District- Gaya

Md. Manzoor Alam @ Manzoor Alam @ Manzoor Ansari Son Of Md. Anwar
Ansari R/O Village- Karai, P.S.- Konch, District- Gaya, Bihar

... .. Petitioner/S

Versus

1. The State Of Bihar
2. Khushboo Khatoon D/O Md. Mostakim Ansari @ Md. Mostkim R/O
Village- Karai, P.S.- Konch, District- Gaya

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramchandra Singh, Advocate
For the State : Mr. Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 08-07-2024 Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the opposite party
no.2.

2. This application has been filed for quashing the
order dated 03.08.2022 passed by the Exclusive Special Judge,
POCSO cum Additional Sessions Judge- VII, Gaya in POCSO
Case No. 127/2020 (arising out of Konch P.S. Case No.
234/2020) on behalf of the petitioner with a prayer to pass an
order for conducting DNA Test of the petitioner and the child of
the informant.

3. The prosecution case in brief is that one
Khushboo Khatoon, gave a written statement before the Konch



S.H.O. police station, stating therein that on 12.08.2020, the petitioner was being sexually exploited under threat for the past eight months, subsequently, she became pregnant and told for marriage but he refused to marry her. When the matter has been reported and marital proposal was put forwarded, the informant and their parents also threatened to kill them.

4. On the basis of written application of Khushboo Khatoon, a Konch P.S. Case No. 234/2020 has been registered for the offences u/s 376, 420, 323, 504, 506/34 IPC against the petitioner and others.

5. The petitioner humbly submits that he is quite innocent and has falsely been implicated in this case.

6. The petitioner also submits that if the allegations levelled in the F.I.R. is taken as true, then in that very situation also that will come in the preview of consented relationship as in the F.I.R. the age of victim is 18 years. In spite of that the petitioner is in jail since 14.08.2020.

7. It has been submitted on behalf of the petitioner that there is one villager Taslim whose mother is friend of mother of the victim. All the family members are regular visiting terms to each other family, even the victim girl use to sleep in the house of Taslim. The parents of the victim given



proposal for marriage of the victim with Taslim but it was heard that due to dowry, the proposal was refused. By that time, the victim was pregnant in spite of that a proposal was given to the petitioner which was refused by the petitioner there upon a false allegation was levelled against the petitioner of rape and a panchayat was also held. Being biased, the present case has been instituted against the petitioner implicating all the family members only to create pressure.

8. In the aforementioned circumstances, the petitioner had filed a petition dated 03.03.21 before the court below for DNA Test which was refused, thereafter, again the petitioner filed a petition before the trial court for D.N.A. Test on 20.07.2022. The victim became ready for the D.N.A. Test but in spite of that the learned trial court dismissed the petition of the petitioner.

9. The opposite party no.2 has submitted that the trial is on the verge of conclusion but because of the stay order passed by this Court, the same is not proceeding.

10. I have Considered the submissions of the parties.

11. The following statement has been made by the victim in paragraph 20 in her deposition:-



20. मैं अपना और अपने बच्चे का डी. एन. ए. जाँच कराने
के लिए तैयार हूँ।

12. When the victim is ready for D.N.A. Test, the Court below should have allowed the same and should not have rejected the application of the petitioner.

13. In these circumstances, the order dated 03.08.2022 passed by the Exclusive Special Judge, POCSO cum Additional Sessions Judge- VII, Gaya in POCSO Case No. 127/2020 (arising out of Konch P.S. Case No. 234/2020) is quashed.

14. Considering the fact that the victim has consented for D.N.A. Test, this application is allowed.

15. The Court below is directed to take necessary steps for the D.N.A. Test of the child. The same must be done within one month from the date of communication of this order as the petitioner is in custody. The Court below will thereafter decide the case, after submission of the D.N.A. Report.

(Sandeep Kumar, J)

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