

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46738 of 2018

Arising Out of PS. Case No.-513 Year-2017 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

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Bittu Choudhary @ Bittu Kumar Choudhary S/o Sunil Kumar Choudhary,
resident of Village- Lagunia Raghukanth, P.S.- Mufassil, District- Samastipur.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Manisha Kumari, D/o Harhar Shankar Kuar, W/o Sajan Yadav, resident of
Village- Lagunia Raghukanth, P.S.- Mufassil, District- Samastipur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh

For the Opposite Party/s : Mr. Sharda Kumari

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

- 2 01-05-2024 1. The present application under Section 482 Cr.P.C.
- has been filed quashing the order, dated 28.03.2018, passed by
- learned Special Judge, POCSO, Samastipur, in Muffasil Police
- Station Case No. 513 of 2017, whereby discharge application of
- the petitioner-accused, dated 27.11.2017, has been rejected.
2. The prosecution story is that the informant-
- opposite party no. 2, namely, Manisha Kumari, aged about 17
- years, lodged a complaint before the Officer In-charge, Muffasil
- Police Station, Samastipur, inter alia alleging that the petitioner
- used to give private tuition to the informant. While she was
- going to coaching centre at Bahadurpur, the petitioner came
- from behind and started saying the words “I love you”. Upon



hearing this, when the informant objected, the petitioner came near her and showed her a photo from the mobile phone which had a photo of the petitioner with the informant.

3. It has further been stated that the petitioner asked the informant to do as he wanted otherwise he would show the photo to others and would upload it on Facebook. Thereafter, the petitioner started doing vulgar and obscene activity with the informant. When the informant threatened him that she would inform her father about this, then the petitioner threatened to kill her and her father. It is also stated that the informant somehow managed to escape from the place and upon reaching home told the entire story to her parents. Later she came to know that the petitioner has uploaded and made viral/circulated the photo on the Whatsapp.

4. On the basis of the aforesaid complaint, Muffasil Police Station Case No. 513 of 2017 was registered against the petitioner on 28.08.2017 for the offences punishable under Section 12 of the POCSO Act and Sections 354-A/354-C/354-D/504/506 and 509 of the Indian Penal Code.

5. The Investigation Officer, after investigation, filed chargesheet against the petitioner for the aforesaid offences as well as Section 67 of the Information Technology Act, 2000.



Subsequently, the cognizance was taken by the Special Court.

6. The petitioner filed a discharge application on 27.11.2017 before the Special Judge, POCSO, Samastipur, who has rejected the same vide order, dated 28.03.2018.

7. Learned counsel for the petitioner submits that even if the allegation, made under First Information Report are accepted to be true, no offence under Section 12 of the POCSO Act has been made against the petitioner. He next submits that in the case diary it has come to light that the informant was having affair with the petitioner and proposal for their marriage was sent to the informant's parents, which was accepted by them, but later, due to some petty differences, marriage could not be finalized and it is in view of the aforesaid background, the present case has been lodged with oblique motive.

8. It has further been submitted that during the course of investigation no cogent material has come against the petitioner which supports the allegation that the petitioner uploaded the objectionable photograph with the informant. The petitioner has not committed any sexual harassment, rather, at best, the allegation made against the petitioner makes out a case of misbehaviour. The impugned order has been passed in mechanical manner without applying judicial mind in abuse of



the process of the Court. He next submits that the informant is major and the prosecution has somehow managed to show her as minor for simple reason to falsely implicated the petitioner under the provisions of POCSO Act.

9. On the other hand, learned counsel for the State submits that the present case relates to sexual offence under Section 12 of the POCSO Act and during the course of investigation witnesses have supported the offences. There are enough material for framing of charge against the petitioner.

10. I have heard learned counsel for the parties and have gone through the impugned order, including the other materials available on record.

11. The accused can be discharged by the Court if there is lack of sufficient ground to believe that the accused has committed offence. If there is no sufficient ground for proceeding against the accused the Court shall discharge the accused and record his reasons for doing so.

12. It is settled law that at the time of framing of charge, the Court has to look into the materials placed before it and to find whether prima facie case is made out or not. The Court is not required to meticulously examine the materials/evidence and/or any questions of admissibility or



reliability of the evidence at the time of framing of charge.

13. Learned Sessions Judge, while rejecting the application of discharge of the petitioner, has taken note of statement of the witnesses recorded during the course of investigation, including the birth certificate of the informant.

14. Learned Court has found sufficient materials for framing of charge against the petitioner.

15. Considering the aforesaid discussion, I do find any reason to interfere with the impugned order, dated 28.03.2018, passed by learned Special Judge, POCSO, Samastipur.

16. In the result, this application is dismissed.

(Anil Kumar Sinha, J)

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