

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4785 of 2017

Arising Out of PS. Case No.-62 Year-2016 Thana- BIRAUL District- Darbhanga

Ilmul @ Ilmul Hoda son of Kamrul Hoda, resident of Village- Gyari, P.S.-
Biraul, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anjani Masure D/o Badrujama Resident of Village- Gyari , P.S. Biraul,
District Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Malay Kumar Choudhary, Advocate
For the State	:	Mr. Sri Satyendra Prasad, APP
For the O.P. No.2	:	Ms. Smiti Bharti, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 4 01-02-2024 1. Heard learned counsel for the petitioner, learned
APP for the State as well as learned counsel for the O.P. No.2.
2. The learned counsel for the O.P. No.2 submits that
the petitioner is enjoying stay since 07.04.2017. It is next
submitted that when the case was taken up on 07.04.2017 by
that time charges were framed and the evidence had commenced
and the evidence of the victim and her father was also recorded.
It is next submitted that from perusal of the order dated
07.04.2017 whereby stay of the proceedings before the learned
trial court was passed, it would manifest that the same does not
take into consideration the fact that the charges have been
framed and trial had commenced.
3. The learned counsel for the O.P. No.2 next submits



that the main plea of the petitioner seeking quashing of the order impugned in the present quashing application is that the DNA test of the child was conducted and the FSL report records that petitioner is not the biological father of the child as such the entire case becomes vulnerable, since the O.P. No.2 herein had alleged that the petitioner had entered into physical relation with her on pretext of marriage and when she became pregnant he refused and the said fact came to the notice of her family members when she was carrying pregnancy of 6-7 months. The learned counsel next submits that the DNA reports stands disputed and as such it has been challenged on behalf of O.P. No.2. The learned counsel for the O.P. No.2 next submits that the age of the victim was assessed initially at Delhi when zero FIR was instituted and at that time her age was assessed below 18 years and as such she was a minor. It is next submitted that when the zero FIR was transferred to Biraoul the present FIR came to be instituted when again her age was assessed by the doctors who assessed her in between 18-19 years. It is thus submitted that when the victim was assessed at Delhi by the doctor at that time her age was assessed below 18 years but here in Bihar when she was assessed her age was assessed as recorded herein above, as such the same also stands disputed



which will be established in the trial.

4. Considering the submission made by the learned counsel appearing on behalf of the O.P. No.2 the Court is not inclined to entertain the quashing application.

5. The quashing application is rejected accordingly.

6. The interim stay granted by order dated 07.04.2017 is hereby vacated.

(Satyavrat Verma, J)

Prakash Narayan

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