

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63771 of 2023

Arising Out of PS. Case No.-83 Year-2023 Thana- KHARHAGPUR District- Munger

1. Mahfooz Ansari S/O Manjoor Ansari R/O Village- Talwariya, P.S- Haweli Khadagpur, Distt.- Munger.
2. Manjoor Ansari S/O Dil Mohamad Ansari R/O Village- Talwariya, P.S- Haweli Khadagpur, Distt.- Munger.
3. Reshma Khatoon D/O Manjoor Ansari R/O Village- Talwariya, P.S- Haweli Khadagpur, Distt.- Munger.
4. Wahida Ansari @ Wahida Khatoon W/O Major Ansari R/O Village- Talwariya, P.S- Haweli Khadagpur, Distt.- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Raju Ansari S/O Ajij Ansari R/O Village- Talwariya, P.S- Haweli Kharagpur, Distt.- Munger.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Manoj Kumar, Advocate
For the Opposite Party/s :	Mr. Raj Kishor Singh, A.P.P.
	Mr. Jyoti Ranjan Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 18-03-2024 Heard the parties.

2. This application has been filed for quashing order dated 14.07.2023 passed in Kharagpur P. S. Case No. 83 of 2023 arising out of POCSO Case No. 30 of 2023 by the Exclusive Special Court (POCSO Act), Munger whereby cognizance was taken against these petitioners under Sections 341, 323, 376/34 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act.

3. Prosecution case, in brief, is that the informant who is father of the victim alleges that his minor daughter used to go for tuition to a private teacher. During the course of tuition, on



pretext of marriage, one co-accused Babar Ansari established physical relation with the daughter of the informant, on account of which she became pregnant. It is further alleged that on 18.02.2023 at 4 PM, the victim went to the house of Babar Ansari to narrate the facts to his family members where she was assaulted and ousted and was asked get the child aborted.

4. Learned counsel for the petitioners submits that from bare perusal of the F.I.R. it would manifest that the thrust of accusation is against co-accused Babar Ansari. Petitioners being family members of co-accused Babar Ansari came to be implicated in order to force Babar Ansari into submission so that he would marry the daughter of the informant. He next submits that the allegation of assault and abuse is general and omnibus in nature and is ornamental in order to make the offence grave. No injury report is on record to substantiate the allegation of assault. As such, in the aforesaid facts and circumstances of the case, continuation of proceeding against these petitioners would amount to abuse of the process of court. He further submits that even presuming what has been alleged is true without admitting then what is alleged against these petitioners by the informant even if true, then it was a very natural reaction of any parents, brother and sister, it is submitted that obviously no parents on



coming to know that such an occurrence has taken place, would allow their son to marry a minor which in itself is an offence. Lastly, he submits that upon investigation by the police, allegations were found false and hence, final form was submitted against these petitioners and they were not sent up for trial. Differing with the same, cognizance has been taken against these petitioners on the basis of the materials available on record.

5. On the other hand, learned counsel for the opposite party No. 2 vehemently opposes the prayer made on behalf of the petitioners. He submits that as a matter of fact, prior to the institution of present F.I.R., a *panchayati* was also conducted in which an offer was given to co-accused Babar Ansari to marry the daughter of the informant but he did not agree to do so and thereafter, present case was instituted. He next submits that there is specific allegation against these petitioners that when the daughter of the informant went to the house of these petitioners, she was assaulted and asked by petitioner No. 2 to abort the child. He further submits that there are sufficient material available on record by which cognizance has been taken against these petitioners. As such, at this stage, it cannot be said that no *prima facie* case is made out against these



petitioners. Hence, no interference is required by this court at this stage.

6. Having heard the submissions advanced by learned counsel appearing on behalf of the parties and on perusing the materials available on record, and the F.I.R., it is apparent that specific accusation of sexual assault is against co-accused Babar Ansari. So far as these petitioners are concerned, allegation is vague and general. The police after investigation submitted final form against these petitioners and were not sent up for trial. Being relatives of co-accused Babar Ansari, they have been made accused with omnibus allegation.

7. Considering the fact that allegations of assault against these petitioners are general and omnibus in nature and there is no injury report in support of the same and final form has been submitted against these petitioners, it would be unjust if the petitioners are forced to go through the tribulations of a trial.

8. In view of the foregoing discussions, order dated 14.07.2023 passed in Kharagpur P. S. Case No. 83 of 2023 arising out of POCSO Case No. 30 of 2023 by the Exclusive Special Court (POCSO Act), Munger with respect to these petitioners, is hereby quashed.



9. This application is, accordingly, allowed.

(Prabhat Kumar Singh, J)

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