

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1415 of 2019

Arising Out of PS. Case No.-332 Year-2016 Thana- BARH District- Patna

ANAND KUMAR @ RICKY @ Anand Kumar Gupta Son of Late Dayanand Prasad Resident of Village - Salempur, Ward No. 12, Nilami Gali, P.S.- Barh, Distt - Patna.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Nkita Kumari (Soni) D/o- Late Laddu Gopal Sao, R/o Talibpur, Ward No. 14, P.S. Barh, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha
For the Respondent/s : Mr. Anil Kumar

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 29-04-2024 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

2. The present application has been filed for setting aside the order dated 19.08.2019 passed by the Additional Sessions Judge, IV, Barh, Patna in Sessions Trial No. 775 of 2018 by which the application of the petitioner has been rejected.

3. The prosecution case in brief that one Nikita Kumari alias Soni alleged therein *inter alia* that she solemnized her love marriage with this petitioner on 24.11.2013 at Ram Janki Mandir Shree 108 Jhoparia Baba Asthan, Umanath at Barh (Patna) hence she has gone with him to his house where on after residing for 2-3 months with him she started to live with him in a rented house and thereafter lived in Dayachak and Patna



where she is alleged to have been in a private job and further allegation is that she had got pregnant twice but the pregnancies had been aborted by her on his instance and thereafter she started to live in his house, from where she has been forcibly ousted by his other family members on the pretext of demand of four wheelers, on 13.10.2016. On the basis of said written report, a formal FIR was drawn for further investigation.

4. It has been submitted by the learned counsel for the petitioner that there is no allegation of sexual assault and the chargesheet was wrongly submitted under Sections 376/420/506 of the Indian Penal Code. It has also been submitted that there is no evidence with regard to any miscarriage, but it has come during investigation that the alleged victim was in relationship with other persons also and she had filed cases against them also.

5. Learned counsel for the petitioner has submitted that the witnesses in paragraph No. 6,7,8,9 and 10 who are relatives of the victim have not made any allegation of rape, but the case was registered under Sections 313/506/498(A) of the Indian Penal Code and Section 3/4 of the D.P. Act.

6. Learned counsel for the petitioner has also submitted that independent witnesses have not supported the prosecu-



tion case and it has come during investigation, the victim was never taken to any doctor.

7. Learned Additional Public Prosecutor has gone through the case diary and he has also submitted that and it appears that the victim was in relationship with the petitioner and after some dispute, she filed the present case under Sections 313/506/498(A) of the Indian Penal Code and Section 3/4 of the D.P. Act, but the police has submitted chargesheet under Sections 376/420/506 of the Indian Penal Code.

8. Learned counsel for the petitioner has relied upon the judgment passed in the case of ***Pramod Suryabhan Pawar Vs. State of Maharastra and Anr. reported in 2019(9) SCC 608.***

9. I have considered the submissions of the parties.

10. From the materials available on record, it appears that the victim was in relationship and she has filed a case under Sections 313/506/498(A) of the Indian Penal Code and Section 3/4 of the D.P. Act and the offences under Sections 376/420/506 are not made out against the petitioner.

11. In view of the fact as stated above, this discharge application is allowed.

12. The petitioner is discharged from the charges



levelled against him and order dated 19.08.2019 passed by the
Additional Sessions Judge, IV, Barh, Patna is set aside.

(Sandeep Kumar, J)

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