

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14981 of 2024

Arising Out of PS. Case No.-503 Year-2023 Thana- MOHANIYA District- Kaimur (Bhabua)

Shyamsundar Kumar S/o Hanuman Singh Resident of Village-Mishrawaliya,
Dadar, Kaimur (Bhabhua), 821109, P.O.-Dadar, P.S.-Mohaniya, District-
Kaimur (Bhabhua)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Khusbu Kumari D/o-Mantu Kumar Singh Resident of Village-Dadar,
Kaimur (Bhabhua), P.O.-Dadar, P.S.-Mohaniya, District-Kaimur (Bhabua)

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Yash Mathur, Advocate Ms.Antara Azad, Advocate
For the Opposite Party/s	:	Mr.Ajit Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 02-12-2025

Heard Mr. Yash Mathur along with Ms. Antara Azad,
learned counsels appearing on behalf of the petitioner and Mr.
Ajit Kumar, learned APP for the State.

2. The petitioner has preferred the present application
under Section 482 of Cr.P.C. for quashing of First Information
Report bearing Mohaniya P.S.Case No.504 of 2023 registered
under Sections 376 and 313 of Indian Penal Code.

3. As per the allegation made in the FIR, when the
victim was studying in School (nine years earlier of lodging of
the FIR), the informant and the petitioner developed talking
terms with each other. The petitioner on the pretext of getting



married with her made physical relation and upon being pregnant, he gave her medicine and refused to marry with her, thereafter, her father settled her marriage with another person, but the petitioner broke their marriage and threatened that he would not let her marry anywhere.

4. Mr. Yash Mathur along with Ms. Antara Azad, learned counsels appearing on behalf of the petitioner submitted that the informant is the victim and she has admitted in the FIR that she was in relationship with the petitioner and without any objection, they consented for alleged sexual relationship and when the petitioner did not marry with her, the present FIR has been lodged against him. As such, once it is consensual, the petitioner can not be said to have committed offence punishable under Sections 375 IPC.

5. Learned counsels further submitted that the cognizance has been taken under Section 376 Cr.P.C. for the offence, as alleged in the FIR, vide order dated 03.04.2025 but the petitioner has sought for quashing of the First Information Report on the ground that from bare perusal of the record, it appears that no offence is made out against the petitioner under Sections 376 and 313 of the IPC.

6. The ingredients as contained in Section 375 of the



Indian Penal Code is as follows : -

“375. Rape.—

A man is said to commit "rape" if he—

(a)penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b)inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c)manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d)applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:—

(First.)— Against her will.

(Secondly.) — Without her consent.

(Thirdly.) — With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt,

(Fourthly.) — With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

(Fifthly.) — With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

(Sixthly.) — With or without her consent, when she is under eighteen years of age.

(Seventhly.) — When she is unable to communicate consent.

Explanation 1.— For the purposes of this section, "vagina" shall also include labia majora.



Explanation 2.— Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1.— A medical procedure or intervention shall not constitute rape.

Exception 2.— Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.”

7. In support of the argument, the learned counsels appearing on behalf of the petitioner has relied upon the recent judgment of the Apex Court passed in the case of ***Ravish Singh Rna- Vs. State of Uttarakhand and Anr.*** reported in ***2025 SCC OnLine SC 1055***, wherein also the similar allegations were made and the appellant had entered into settlement, however, the Apex Court analyzing the law reiterated that the parties were in relationship for the long period being fully aware of the consequences and they consented to natural sex. There is no allegation that such physical relationship would not have been established had there been no promise to marry. The Hon’ble Supreme Court observed that the long drawn relationship of the accused/appellant and the victim including the circumstance of their living together and cohabiting with each other, that too, in a separate rented accommodation, would give rise to a



presumption that their relationship was based on a valid consent.

8. The Learned counsels based on the above proposition of law submitted that in the present case, the victim (informant) has admitted that she was in relationship for nine years and there is presumption that the relationship was based on a valid consent.

9. Learned counsels considering the fact that they have not challenged the cognizance and the stage of the trial, they seek to raise all these issues before the learned district court at an appropriate stage.

10. In view of the above discussions and the informations that the cognizance has been taken, the petitioner may avail appropriate remedy in accordance with law.

11. With the above observation, the present application stands disposed of.

(Purnendu Singh, J)

chn/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	.12.2025
Transmission Date	.12.2025

