

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76875 of 2024

Arising Out of PS. Case No.-101 Year-2023 Thana- HILSA District- Nalanda

Pankaj Kumar Son of Mahesh Prasad Resident of village- Lalse Bigha, Ps-
Hilsa, dist- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anil Chandra, Adv
For the Opposite Party/s	:	Mr. Uma Shankar Prasad Singh, APP
For the O.P. No. 2	:	Mr. Kumari Sujata, Adv

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 24-06-2025

Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. The present quashing petition has been preferred to quash the order dated 06.08.2024 passed in Sessions Trial No. 303 of 2024 arising out of Hilsa P.S. Case No. 101 of 2023, where learned S.D.J.M., Hilsa, took cognizance for the offence punishable under Sections 406, 420, 376, 313, 498 A and 506 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

3. Both parties appeared in person.

4. The case of prosecution in brief is that



informant Kalyani Kumari @ Monam and Pankaj Kumar, who were college students at S.U. College, entered into a relationship and lived together as husband and wife at Patna and Rajgir for about seven years. During this period, Pankaj allegedly coerced her into undergoing six abortions and continuously promised to marry. On 14.10.2022, they executed a marriage affidavit at the Civil Court, Biharsharif, and performed rituals at Rajgir Kund. Kalyani also claims that Pankaj took her jewellery and money under the pretext of funding his GNM course and she also supported him financially. Pankaj delayed marrying with her by promising that will marry after his sister's marriage in July 2022. Later, Pankaj and his family demanded Rs. 35 lakhs to accept her, despite prior assurances. Eventually, he refused to keep her and threatened to leak her private video, while his father stated that Pankaj would marry someone else.

5. Learned counsel appearing on behalf of petitioner submitted that no offence as alleged for rape appears to be made out prima-facie against petitioner because alleged physical relation appears prima-facie



consensual in nature. It is submitted that this fact can also be gathered from the face of FIR. It is also submitted that allegation of rape was raised only when marriage of petitioner could not solemnized with O.P. No. 2 for social reasons. It is submitted that corporeal relationship on false pretext of marriage cannot be said as rape in terms of legal reports of Hon'ble Supreme Court as available through **Ansaar Mohammad Vs. State of Rajasthan and Another, [2022 SCC OnLine SC 886] & Pramod Suryabhan Pawar Vs. State of Maharashtra and Another, [(2019) 9 SCC 608]**. It is lastly submitted that petitioner denied any marriage with O.P. No. 2.

6. Learned counsel appearing on behalf of O.P. No. 2 submitted that marriage of O.P. No. 2 was solemnized with petitioner and it was duly registered with notary on 14.10.2022. It is also pointed out that petitioner while obtaining bail in Bail Petition No. 401 of 2023 advanced a proposal to keep O.P. No. 2 as wife with all her dignity but never accompanied her and now he is denying the marriage and physical relationship which was established on false



pretext of marriage, which implies that petitioner from very inception was not intended to solemnize marriage with O.P. No. 2.

7. In view of aforesaid the core issue which requires to be decided in this case is that whether marriage of petitioner was ever solemnized with O.P. No. 2 or not. This Court is of view that this factual aspect cannot be ascertained while dealing with present quashing petition as same could only ascertained during the trial.

8. In view of aforesaid, present quashing petition stands dismissed being devoid of any merit as to interfere with impugned order dated 06.08.2024 as passed by learned Additional Sessions Judge-I, Hilsa Nalanda in Sessions Trial No. 303 of 2024.

9. Office is directed to sent a copy of this judgment to the learned Trial Court, forthwith.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.06.2025
Transmission Date	25.06.2025

