

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17991 of 2023

Arising Out of PS. Case No.-251 Year-2020 Thana- BIHRA District- Saharsa

1. RAM SUNDAR SAH Son of Late Baso Sah @ Basudeo Sah Resident of Village - Dorma, P.S.- Bihra, District - Saharsa.
2. Ramesh @ Ramdev Sah @ Ram Sah Son of Late Vasu Sah @ Basudeo Sah Resident of Village - Dorma, P.S.- Bihra, District - Saharsa.
3. Gautam Kumar Sah @ Gautam Kumar Son of Ram Sundar Sah Resident of Village - Dorma, P.S.- Bihra, District - Saharsa.
4. Devendra Sah @ Devanand Kumar @ Devanand Sah Son of Ramesh Sah @ Ramdev Sah @ Ram Sah Resident of Village - Dorma, P.S.- Bihra, District - Saharsa.
5. Raju Kumar Sah Son of Heeramani Sah Resident of Village - Dorma, P.S.- Bihra, District - Saharsa.
6. Shyam Sah Son of Laldeo Sah Resident of Village - Dorma, P.S.- Bihra, District - Saharsa.
7. Shushil Yadav @ Shushil Kumar Son of Rajendra Yadav Resident of Village - Dumma, P.S.- Bihra, District - Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mala Devi Wife of Ahok Chaudhary Resident of Village - Dorma, Telyari Ward No.- 5, P.S.- Bihra, District - Saharsa.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Javed Aslam
For the Opposite Party/s : Mr.Chandra Bhushan Prasad

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL ORDER

3 30-03-2026 Heard learned counsel for the petitioners and learned counsel for the State.

2. The present application has been filed for quashing of the order dated 30-01-2023 passed by learned ADJ-VI-cum-Spl. Judge (POCSO), Saharsa in POCSO Case No. 55 of 2020 arising out of Bihra P.S. Case No. 251 of 2020 whereby and



whereunder, the discharge petition under Section-227 of the Cr.P.C. has been rejected.

3. As per allegation, on 09-12-2020 at night, the co-accused Pritam Kumar, son of the petitioner No. 1 entered the informant's house and attempted to commit rape upon her 14 years minor daughter. The co-accused Pritam Kumar was caught and the Officer-in-charge was called but in the meantime, the petitioners entered the house of the informant variously armed and they assaulted Manoj Chaudhary, Vikash Kumar, Baby Devi and others and also, snatched the articles from the house.

4. Learned counsel for the petitioners submits that this is a matter of love affairs between the son of petitioner No. 1 and the girl, in question and the petitioners have no connection at all, in the alleged occurrence.

5. Love affairs with minor may not be a permissible defence but that case is specifically against co-accused Pritam Kumar which may only be thrashed out at the time of trial. The allegation against the petitioners is of assaulting two persons namely Vikash Kumar, Baby Devi and some unknown persons. During investigation, no injury report at all was brought on record to substantiate the allegation.

6. Cognizance has been taken for the offence



punishable under Sections-341, 323, 504, 506, 354(B), 452 and 509 of the Indian Penal Code and Section-8 of POCSO Act. The said offences may not be made out against these persons (petitioners) who were not present at the time of occurrence but they have only been roped in the present case at the fag end of the FIR to implicate all the family members.

7. In such view of the matter, the order dated 30-01-2023 passed in POCSO Case No. 55 of 2020 arising out of Bihra P.S. Case No. 251 of 2020 by learned ADJ-VI-cum-Spl. Judge (POCSO), Saharsa is quashed in respect of the petitioners only.

8. Accordingly, this application stands **allowed**.

(Ansul, J)

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