

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25498 of 2016

Arising Out of PS. Case No.-38 Year-2015 Thana- GORAU District- Vaishali

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1. Md. Haider Ali Son Of Late Raffiquiddin Ansari Resident Of Village- Sondho Bazar, P.S.- Goraul, Distt- Vaishali
 2. Husne Ara Haidri @ Husne Ara Wife Of Md. Haider Ali Resident Of Village- Sondho Bazar, P.S.- Goraul, Distt- Vaishali

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shahjahan wife of Taj Ansari, resident of Village- Sondho Gulzarbagh, P.S.- Goraul, District- Vaishali.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Senior Advocate Mr. Sanjeet Kumar Singh, Advocate Mr. Pushkar Prashant, Advocate Ms. Priya Kumari, Advocate
For the State	:	Mr. Gulnar Begum, APP
For the O.P. No.2	:	Mr. Manish Chandra Gandhi, Advocate

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

13 02-02-2026 Heard learned counsel for the parties.

2. The instant application has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C.”), against the order dated 12.04.2016 passed by the Court of the S.D.J.M., Hajipur in G.R. No. 529 of 2015/Tr. No. 234 of 2016, arising out of Goraul P.S. Case No. 38 of 2015, whereby and whereunder cognizance has been taken for the offences under Sections 376 and 504/34 of the Indian Penal Code.

3. Mr. P.N. Shahi, learned senior counsel appearing



for the petitioners, submits that in the entire complaint filed by O.P. No. 2, there is neither any allegation against the present petitioners, nor is there even a whisper indicating their involvement with the co-accused, namely Asjad Ali @ Pappu, in the commission of the alleged physical relationship or rape. He further submits that even if the entire narrative as set out in the complaint is assumed to be true, no offence under Sections 376 and 504 of the Indian Penal Code, of which cognizance has been taken and the petitioners have been summoned, is made out against them. Therefore, in view of the principles laid down by the Hon'ble Apex Court in *State of Haryana and Others v. Bhajan Lal and Others*, reported in *1992 Supp (1) SCC 335*, the cognizance of alleged offences against the petitioners is bad as the case of the petitioners is squarely covered by the principles laid down in paragraph 102 thereof.

4. Though Mr. Manish Chandra Gandhi, learned counsel appearing for O.P. No. 2, opposes this petition but he fairly accepts that in the entire complaint there is no allegation against the petitioners.

5. Considering the aforesaid submissions and taking into account the averments made in the present application, particularly the contents of the complaint filed by O.P. No. 2, I



find that the role of the petitioners in the commission of the alleged occurrence does not appear even *prima facie*, and the entire allegation of the prosecution is against the son of the petitioners. Subjecting the petitioners to prosecution for the alleged offences, of which cognizance has been taken, would amount to an abuse of the process of the Court. Accordingly, the impugned order summoning the petitioners for the alleged offences, of which cognizance has been taken, as well as all subsequent proceedings initiated against them pursuant to the cognizance order, are hereby set aside/quashed, and the instant petition stands allowed.

(Shailendra Singh, J)

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