

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 39755 of 2024

Arising Out of PS. Case No.-7 Year-2024 Thana- MAHILA P.S. District- Bhojpur

-
-
1. Prince Kumar Rai @ Prince Yadav Son of Anish Rai Resident of Village-Dumaria, P.S- Gidha, District- Bhojpur at Ara
 2. Chandan Kumar Rai @ Chandan Yadav Son of sarvanand Ray Resident of Village-Dumaria, P.S- Gidha, District- Bhojpur at Ara
 3. Rohit Kumar Rai @ Rohit Yadav Son of Hari Mohan Yadav Resident of Village-Dumaria, P.S- Gidha, District- Bhojpur at Ara

... .. Petitioners

Versus

1. The State of Bihar Patna
2. Upendra Kumar Singh Son Late Baccha Singh Resident of Village-Mokampur, P.S- Gidha O.P,(Gidha) , District- Bhojpur at Ara

... .. Opposite Parties

Appearance :

For the Petitioners : Mr. Shaishav Kumar, Advocate
For the Opposite Party-State: Mrs. Anita Kumari, APP

CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR
CAV ORDER

3 08-05-2026 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. The petitioners are seeking quashing of the impugned order dated 21.03.2024, passed in POCSO P.S. Case No. 38 of 2024, arising out of Mahila P.S. Case No. 07 of 2024, by the learned Additional District and Session Judge-VI-cum-Special Judge. POCSO, Ara, by which the learned Special Court was pleased to take cognizance against the petitioners for the offences punishable under Section 376 DA of the Indian Penal



Code, Section 27 of the Arms Act and Section 6 of the Protection of Children from Sexual Offences Act (POCSO Act).

3. The prosecution case, as per the written report of the informant, is to the effect that, on 01.02.2024, the informant had gone to attend a marriage ceremony in the village along with his elder son. At about 21:08 hours, the wife of the informant called the informant and told him to come to the house as some boys had kidnapped their daughter ('the victim') on the point of pistol. It has further been alleged that when the informant reached his house along with his elder son and enquired into matter, his younger son, aged about ten years, told the informant that he and his sister, the victim, aged about 14 years, were studying in the front room of the house, then accused Dheeraj Yadav, Chandan Yadav, son of Sarvanand Rai, Vishal Yadav, Chandan Yadav son of Madan Rai, Prince Yadav and Rohit came there. They started abusing the informant and also told that they belong to a particular political party and all the aforesaid accused persons took her sister, the victim. It has further been alleged that search was made and during the course of search, the informant found the victim in an injured condition two kilometers away in an orchard and her clothes were not in order. It has further been alleged that upon information to the



police, the victim was taken to a nearby hospital for treatment.

4. Learned counsel for the petitioners has submitted that the petitioners have been falsely implicated in this case. It has further been submitted that after investigation, the allegation with respect to the petitioners were not found true and they were not sent up for trial, but the learned Magistrate, differing with the final form, took cognizance against the petitioners and others by the impugned order. It has also been submitted that the victim girl, in her statement recorded under Section 161 and 164 CrPC, had not named the petitioners and has only named co-accused Vishal and Dheeraj and has stated that Dheeraj had raped her. It has further been submitted that in the medical examination of the victim girl, no evidence of rape or sexual assault was found on her body. Learned counsel for the petitioners has also submitted that in the facts and circumstances no *prima facie* case is made out against them.

5. Learned counsel for the State has vehemently opposed the prayer of the petitioners.

6. It is pertinent to mention that the learned Special Court while passing the impugned order taking cognizance has considered the entire materials as collected during the investigation and took cognizance against the petitioners



differing with the final form. Learned Special Court has considered the statement of victim recorded under Section 161 and 164 CrPC, apart from the statement of other witnesses, who have fully supported the case against the petitioners. The learned Special Court has considered the entire materials against the petitioners including FIR, final form, diary, statement of the victim recorded under Section 164 CrPC, medical evidence, FSL report and the date of birth. The learned Special Court, having considered the materials collected during the investigation, has not accepted the final form submitted in favour of the petitioners and differing with the final form, took cognizance against the petitioners.

7. Heard the parties and perused the record.

8. In view of the aforementioned facts and circumstances, the fact that the case being under Section 376 DA of the IPC, Section 27 Arms Act and Section 6 of the POCSO Act, the seriousness of the allegation against the petitioners and the finding of learned Special Court, which has found the *prima facie* case against the petitioners, this Court is not inclined to interfere with the impugned order taking cognizance.

9. The application is devoid of merit and is



accordingly dismissed.

(Praveen Kumar, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	01.05.2026
Uploading Date	08.05.2026.
Transmission Date	08.05.2026.

