

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.425 of 2023**

Arising Out of PS. Case No.-50 Year-2021 Thana- MAHILA P.S. District- Muzaffarpur

1. MOHAMMED IRFAN Not available R/v- Fatehpur, P.S.- Katra, District- Muzaffarpur
2. APROZ KHATOON Not available R/v- Fatehpur, P.S.- Katra, District- Muzaffarpur
3. MOHAMMED ATIQUIR RAHMAN Not available R/v- Fatehpur, P.S.- Katra, District- Muzaffarpur

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. MOHAMMED SIRAZ S/o Mohammed Ayub R/v- Fatehpur, P.S.- Katra, District- Muzaffarpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mani Bhushan Kumar, Adv.

For the Opposite Party/s : Mr.Arun Kumar Singh, APP

**CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER**

6 13-01-2026 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners have made the following prayer in
this application :-

*“That this application is being
filed for quashing taking cognizance
dated 06.08.2022 passed by 7th
Additional Session Judge-cum-Special
Judge, POCSO Act, Muzaffarpur in
Mahila P.S. Case No. 50 of 2021, G.R.*



No. 60 of 2021 under Sections 341, 342, 448, 493, 504, 323, 312, 313, 376 and 34 of the Indian Penal Code and Sections 4 and 6 of the POCSO Act.”

3. Learned counsel for the petitioners submits that the petitioners have falsely been implicated in this case and no case against the petitioners for the offences under Section 376 of the Indian Penal Code and Sections 4 and 6 of the POCSO Act is made out. From bare perusal of the F.I.R., it is evident that the victim happens to be major and upon her medical test, her age was found to be 19 to 20 years and therefore the offences under the POCSO Act is not applicable in the present case. It has next been submitted that the allegation of rape has also not been substantiated by any evidences and during pendency of the present application, this Hon'ble Court had directed the Senior Superintendent of Police, Muzaffarpur to enquire into the whereabouts of the victim/informant.

4. Pursuant to the order dated 11.08.2025, the Senior Superintendent of Police, Muzaffarpur has submitted a report which has been brought on record by way of counter affidavit wherein it has been submitted that the victim was found to have eloped with another boy from the neighbourhood. It has further been submitted that the victim earlier was located and was taken



for medical examination and her statement under Section 164 of the Cr.P.C. was also recorded and thereafter, she was handed over to the father of the victim, Md. Ayub. The Senior Superintendent of Police, Muzaffapur has further pointed out that subsequent missing of the victim was reported by her father and for which the F.I.R. bearing Katra P.S. Case No. 151 of 2024 dated 28.02.2024 has been lodged by him. It has further been submitted that the Senior Superintendent of Police, Muzaffapur has pointed out that the CDR of the mobile phone given by the father of the victim was traced and it was found that she was in touch with one Md. Salim Khan and both locations were of Mumbai. Finally, when the police tried to locate the tower location, the phone numbers were found to be switched off. It has further been submitted by the Senior Superintendent of Police, Muzaffarpur that Katra P.S. Case No. 151 of 2024 is still under investigation and the SIT has been constituted for the recovery of the traceless victim/ informant of the present case.

5. Learned counsel has further submitted that in view of the fact that the father of the victim has already entered into a compromise with the petitioners and others and he does not want to pursue the matter further and moreover the police has



also located the victim to be present in Mumbai for which one F.I.R. bearing Katra P.S. Case No. 151 of 2024 has been lodged, the continuation of the present proceeding would amount to abuse of the process of law. It has also been submitted that the order taking cognizance that any evidence of the petitioners being involved in the offences as alleged earlier, also prima facie seems to be false and therefore the proceeding against the petitioners be set aside.

6. Learned A.P.P. for the State does not dispute the aforesaid factum and has referred to the counter affidavit filed on behalf of the Senior Superintendent of Police, Muzaffarpur who has categorically stated that the victim has eloped with a boy from the neighbourhood and for which one Katra P.S. Case No. 151 of 2024 has been lodged by the father of the victim/informant of the present case.

7. Having heard the learned counsel for the parties and taking into account the fact that the police has found the victim to have eloped with one another boy and her location was found to be in Mumbai, the order taking cognizance as far as the petitioners are concerned would amount to abuse of process of law for the fact that the victim is not there to support the contention raised in the F.I.R. and moreover she has eloped with



another boy and her location was found to be in Mumbai.

8. In view of the aforesaid, the order taking cognizance dated 06.08.2022 passed by 7th Additional Session Judge-cum-Special Judge, POCSO Act, Muzaffarpur in Mahila P.S. Case No. 50 of 2021, G.R. No. 60 of 2021, is set aside.

9. The application stands allowed.

(Sourendra Pandey, J)

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