

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52359 of 2008

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Arjun Ram son of Sri Jaddish Ram, resident of Mohalla-Maharaji Pokhar
Paral Ghat, P.S.-Mithanpur, District-Muzaffarpur.

.... Petitioner

Versus

The State Of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Kailash Nath Diwakar, Adv.

For the State : Mr. Dashrath Mehta, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA
ORAL ORDER

3 30-03-2012 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. This application, under Section 482 of the Code of Criminal Procedure, is to quash the order dated 20.12.2007, passed by the Chief Judicial Magistrate, Muzaffarpur, taking cognizance of the offence under Sections 376, 323, 504, 417, 420, 493 and 120(B) of the Indian Penal Code against the petitioner Arjun Ram and his son Pawan Kumar.

3. The learned counsel appearing on behalf of petitioner submits that the petitioner is not named in the First Information Report and has been falsely implicated in this case later on. It is also submitted that the petitioner is the father of Pawan Kumar, who is named in the First Information Report by the informant, Mohini Bishwash. It is further submitted that it has only come in the restatement of the informant, Mohini Bishwash, that when she met with the petitioner and

detailed about the love affairs and physical relation with his son, Pawan Kumar, since before, then he became annoyed expect that, there is nothing against the petitioner in the case diary.

4. Learned A.P.P. appearing on behalf of State submits that the name of the petitioner has come only in the restatement of informant, Mohini Vishwash, who has stated that when she reached Muzaffarpur and met with the petitioner, father of Pawan Kumar and detailed about love affairs and physical relation with Pawan Kumar on pretext to perform marriage, then the petitioner, Arjun Ram, became annoyed and told that he does not know anything.

5. It appears that on the basis of written report of the informant, Mohini Bishwash, Mithanpura P.S. Case No. 70 of 2007 was instituted on 25.04.2007 under Sections 376, 504 and 323 of the Indian Penal Code against Pawan Kumar. The informant, Mohini Bishwash, has alleged in his written report that she and Pawan Kumar (son of petitioner), resident of Chaklasu, District-Muzaffarpur were studying in East Point College of Technology Bangalore and she developed friendly relation with Pawan Kumar, and thereafter, Pawan Kumar developed physical relation with her on the promise to perform the marriage. She further alleged that on 13.04.2007, Pawan Kumar quarreled with her and told that his examination of Railway Department will be held on 27.04.2007 at Muzaffarpur, so he has to go to Muzaffarpur. When she came to know the information about to perform the marriage by Pawan Kumar with Shikani, she came to Muaffarpur

and told to Pawan Kumar to perform the marriage then he refused to perform the marriage. While on the promise to perform the marriage by Pawan Kumar, she had developed physical relation with her since about four years.

6. From perusal of the case diary, it appears that the informant, Mohini Bishwash, in her restatement, in paragraph no. 2 of the case diary has detailed that when she met to the petitioner, Arjun Ram, and told about the lover affairs and physical relation with his son, Pawan Kumar, then petitioner became annoyed.

7. Under the aforesaid facts and circumstances, the order dated 20.12.2007 passed in Mithanpura P.S. Case No. 70 of 2007 by the Chief Judicial Magistrate, Muzaffarpur, taking cognizance of the offence under Sections 376, 323, 504, 417, 420, 493 and 120 (B) of the Indian Penal Code against the petitioner appears to be abuse of the process of the Court. Accordingly, the impugned order with respect to the petitioner is hereby quashed and this application is allowed.

(Rajendra Kumar Mishra, J.)

Safik/-