

(2010) 11 PAT CK 0122

In the Patna High Court

Case No : Criminal Miscellaneous No. 45119 of 2006

Sanjiv Singhm and Mukesh Singh @ Mukesh Kumar Singh

APPELLANT

Vs

The State of Bihar and Basho Ram

RESPONDENT

Date of Decision : 22-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164, 482
Penal Code, 1860 (IPC) — Section 34, 347, 376, 504, 506

Citation : (2011) 59 BLJR 2117 : (2011) 1 PLJR 968

Hon'ble Judges : Akhilesh Chandra, J

Bench : Single Bench

Judgement

Akhilesh Chandra, J.—Heard Shri Pramod Kumar Singh, learned Counsel for the petitioners and Shri Damodar Prasad Tiwary, learned Counsel for the State. There is no representation on behalf of learned Counsel for the opposite party No. 2 to press this application.

2. This is an application u/s 482 of the Code of Criminal Procedure seeking quashing of order dated 17.08.2006 passed in Sessions Trial No. 635/2005 by Additional Sessions Judge, Rosera, Samastipur seeking their discharge for the offences under Sections 347, 504, 506 and 376/34 of the Indian Penal Code.

3. The relevant fact of this case is that one Bibhutipur P.S. Case No. 133/1998 was initiated at the instance of substituted opposite party No. 2 Basho Ram, against five persons including two petitioners alleging abduction of his daughter Babita Kumari for ulterior motive.

4. Subsequently, at the statement of the victim Rosera P.S. Case No. 147/1998 was instituted against four persons (non-petitioners). Statement of the victim u/s 164 of the Criminal Procedure Code in both the cases have been recorded in the instant case, it was recorded on 27.08.1998 vide Annexure - 4, whereas in the case instituted at her instance, it was recorded on 19.08.1998. No doubt, in both of her statements there is some contradictory statement but, in her subsequent statement recorded in the instant case, she has tried to explain the reasons

behind such contradictions and on the basis of her statement at this stage, it cannot be accepted that petitioners deserve to be discharged.

5. No doubt, notices were issued to the victim who is reportedly dead and subsequently notice was issued to her father i.e. informant in this case, but he is not in appearance. Surprisingly, without any order of stay from this Court as submitted, there is no progress before the trial court. It is shocking that when more than 4 years ago prayer for discharge was refused while the trial is pending without any progress.

6. Considering the facts and circumstances of the case, as stated above, court below is directed to proceed expeditiously with the trial and preferably dispose it of within six months of communication of the order, if at all, it is pending.

7. With the above direction, this application stands disposed of without interfering in the impugned order.

8. Let carbon copy of the case diary along with copy of this order be at once transmitted to the court below for needful.