

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37123 of 2020**

Arising Out of PS. Case No.-44 Year-2020 Thana- CHHATAPUR District- Supaul

1. Pradeep Yadav, Male, aged about 24 years, Son of Bulbul Yadav.
2. Santosh Yadav, Male, aged about 28 years, Son of Late Shanichar Yadav.
Both are Resident of Village- Gwalpara (Manjhaul) Ward No. 4, PS-
Chhatapur, District- Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 37785 of 2020

Arising Out of PS. Case No.-44 Year-2020 Thana- CHHATAPUR District- Supaul

1. Vipin Yadav, Male, aged about 29 years, Son of Mahaseo Yadav.
2. Chandan Yadav, Male, aged about 30 years, Son of Indradeo Yadav.
Both are resident of Village- Gwalpara (Manjhaul) Ward No. 4 PS-
Chhatapur, District- Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 37123 of 2020)

For the Petitioner/s : Mr. Kamal Kishore Singh, Advocate

For the State : Mr. Md. Arif, APP

For the Informant : Mr. Chandra Mohan Jha, Advocate

(In CRIMINAL MISCELLANEOUS No. 37785 of 2020)

For the Petitioner/s : Mr. Kamal Kishore Singh, Advocate

For the State : Ms. Anita Kumari Singh, Advocate

For the Informant : Mr. Chandra Mohan Jha, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 02-08-2021

The matter has been heard *via* video conferencing.



2. Heard Mr. Kamal Kishore Singh, learned counsel for the petitioners in both the cases; Mr. Md. Arif, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State in Cr. Misc. No. 37123 of 2020 and Ms. Anita Kumari Singh, learned APP in Cr. Misc. No. 37785 of 2020 and Mr. Chandra Mohan Jha, learned counsel for the informant in both the cases.

3. The petitioners apprehend arrest in connection with Chhatapur (Rajeshwari OP) PS Case No. 44 of 2020 dated 23.02.2020, instituted under Section 366A of the Indian Penal Code.

4. The allegation against the petitioners and others is that they had forcibly abducted the minor granddaughter of the informant for getting her married to co-accused Rahul Yadav.

5. Learned counsel for the petitioners submitted that the grand-daughter of the informant who had come to live with her grandparents, fell in love with co-accused Rahul Yadav and she on her own free will had run away with him and they had also married and because the petitioners are co-villagers and were known to Rahul Yadav, they have been made accused. It was submitted that the girl has returned and in her statement before the Court under Section 164 of the Code of Criminal



Procedure, 1973 (hereinafter referred to as the 'Code'), though she has stated that the petitioners were also involved in her abduction, but the story itself is self-contradictory. It was submitted that she has stated that the incident took place on 21.02.2020 and she had been raped by Rahul Yadav and became pregnant two months prior to such date. However, it was submitted that neither has she told anybody nor there is any evidence of any rape or her being pregnant for such a long period. It was further submitted that in her statement she has also stated that she was forcibly married to Rahul Yadav. Learned counsel submitted that had there been any role of the petitioners, the girl would not have admitted that co-accused Rahul Yadav had married her and most importantly, there is not even a whisper of any wrong act or physical abuse against the petitioners. Learned counsel submitted that from the statement of the girl it is also clear that she was taken to different places and even Nepal and, thus, it is not believable that while travelling to all these places, they would not come across any person or police so as to enable the girl to raise a cry that she was abducted. Further, it was contended that the girl having been properly fed and given a place to live, is a clear indication that she and Rahul Yadav had married with consent. Learned counsel submitted that the petitioners have no other



criminal antecedent. It was further submitted that the girl in her statement under Section 161 of the Code has stated that when Rahul Yadav, whom she had married had heard about the present case, he was bringing her with him on a motorcycle when the police caught them on the way. This, learned counsel submitted is corroborated by the police as they have shown the place of recovery to be the National Highway and both Rahul Yadav and the girl were recovered together. It was submitted that there is no allegation of any misbehaviour or physical assault or abuse against the petitioners. Learned counsel submitted that from the very circumstances of the case, it is clear that there was love affair between Rahul Yadav and the girl as it cannot be believed that five persons would just bring a girl and force Rahul Yadav to commit rape on that girl and they themselves would not indulge in the same, if at all the purpose was something immoral. Learned counsel further submitted that in such statement, she has also stated that she was two months pregnant and had married Rahul Yadav but it was said that it was done under force, which clearly is tutored. It was submitted that the main accused, Rahul Yadav, is in custody.

6. Learned APP, from the case diary, submitted that the girl has stated that the petitioners were also party to her being



taken to Nepal. However, it was not controverted that in her statement under Section 161 of the Code, she has stated that when Rahul Yadav heard about the case, he was bringing her back on the motorcycle and on the way both of them were caught by the police. Moreover, it was not controverted that during medical examination, no sign of any rape has been found.

7. On a query of the Court as to whether any sign of being pregnant has been found during medical examination, it was submitted that the age opined is between 17-19 years and ultrasound was advised but no such report is available in the case diary.

8. Learned counsel for the informant submitted that such incident is common and that because the petitioners were dominant in the village, they had abducted with bad intention and the marriage was sham, as ultimately, she would have been sold for flesh trade. It was further submitted that both in the statement before the police under Section 161 of the Code and before the Court under Section 164 of the Code, the petitioners have been said to be among the persons who had taken her to Nepal.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court



finds force in the submission of learned counsel for the petitioners. From the allegations made and what has come during investigation, there are indications that the marriage of the girl to Rahul Yadav, who is still in custody, may not be a forced one for the reason, as has been submitted by learned counsel for the petitioners, five persons cannot bring a girl with bad intention to only allow Rahul Yadav to physically abuse the girl without themselves also taking part in the said crime and most importantly, if at all the intention was only for immoral purposes, there would not have been any occasion to marry, which admittedly has been performed between the girl and Rahul Yadav.

10. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned ACJM, VI, Supaul in Chhatapur (Rajeshwari OP) PS Case No. 44 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that the petitioners and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioners and (ii) that the petitioners shall co-operate with the Court and police/prosecution. Any violation of



the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of their bail bonds.

11. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners.

12. The petitions stand disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	
T	

