

In the Court of 1st Additional Sessions Judge
Bhagalpur.

ST 706/19

ORDER

03.01.2020

A petition dated 06.12.19 is filed on behalf of accused petitioners namely Ayush Kumar @ Chotu, Visnudev Kumar, Guddu Kumar, Sikander Tanti is filed that sections 376 and 420 of IPC do not attract against these petitioners. Hence, this case is to be returned to Ld. CJM for trial as other sections are triable by judicial Magistrate 1st Class.

Ld. Addl. P.P for the State opposed it orally.

After perusal of para 02, 06, 07, 39, 71, and 74 in C.D there is sufficient material against the petitioners to frame charge in all sections. The plea of the petitioner is that section 376 of IPC does not attract against them and it does not appear to be proper to frame charge in this section. It is also alleged that section 376 and 498 (A) do not survive together. Considering the whole evidence in C.D it appears that the fact of marriage is also a disputed fact and whether victim was legally married wife or not is also a matter of trial. All the facts which has been mentioned in the petition are matter of trial. Framing charge is not conviction. It is well established law that even on mere suspicion charges may be framed

Considering all the facts and circumstances the petition of the petitioner is hereby rejected in the interest of justice.

Put the record on 14-01-20 for framing charge.



Addl. Sessions Judge 1st
Bhagalpur.