

In the Court of Addl. Sessions Judge- I,

Vaishali at Hajipur,

S.Tr No.- 757/2022

27.07.2023 The record was put up for order upon the petition of accused Kundan Kumar u/s 227 of Cr.P.C. Re-joinder to the petition has been filed by the prosecution on 12.05.2023.

ORDER

It has been submitted on behalf of accused that the victim filed a complaint case before the CJM, Hajipur and vide order dated 25.09.2019 the learned ACJM-1st, Hajipur has been pleased to send the case for registration u/s 156(3). Bhagwanpur PS instituted a case on 17.11.2019 bearing Bhagwanpur PS Case no. 310/2019 for offence u/s 376, 420, 406 of IPC and 3/4 of Dowry Prohibition Act. It has been further submitted that it is a false case and the accused is innocent and has committed no offence. The accused has been implicated in the case due to village politics as his neighbour Chotu Tiwari has conspired to implicate the petitioner and to get him removed from the service. The mother of the petitioner has filed a case against Chotu Tiwari and others bearing compliant case no. 3467 of 2019. The present case is the outcome of that case. There is no proof of the payment of Rs 5 Lakhs to the parents of the petitioner. There was no talk of marriage between the informant and the petitioner in the year 2017. During investigation no one came to support that the petitioner forcefully made illicit relation with the complainant, hence the accused may be discharged.

To the contrary, by filing a re-joinder it has been submitted on behalf of the prosecution that the petitioner has physical relation with the victim. During investigation the victim was re-examined by the I.O and has fully supported the prosecution case in para 5 of the case diary. In para 6,7,8 and 9 of the case diary the

witnesses have fully supported the prosecution case. The SDPO, Hajipur has found the case true. The victim has been examined on 06.10.2020, u/s 164 of Cr.P.C. There is sufficient evidence available on record for framing charge u/s 376 of IPC. Hence the petition of the accused may be rejected and charges against him may be framed.

It is pertinent to mention at the very outset that the court is not required to meticulously examine the prosecution evidence at this stage. The statement of the victim has been recorded u/s 164 of Cr.P.C on 06.10.2020. The victim has clearly stated in her statement that Kundan Kumar, 4 to 5 times made physical relation with her on the pretext of marriage but in the year 2020 he started demanding Rs. 10 Lakhs from the parents of the victim. After investigation charge sheet u/s 376 of IPC has been submitted against the accused. In para 5 of the case diary the victim has supported the case. In para 6 of the case diary witness Rajan Tiwari has supported the case of the victim in para 7 of the case diary, witness Dali Devi in para 8 of the case diary witness Gyasudin and in para 9 of the case diary witness Madjubaid has supported the case of the prosecution. There is ample evidence in the case diary for framing charge against the accused. Hence the petition of discharge filed on behalf of accused stands rejected.

Addl. Sessions Judge-I
Vaishali at Hajipur
27.07.2023