

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8783 of 2023

Petitioner :- Smt. Kajal And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. Govt. U.P. Lucknow And Others

Counsel for Petitioner :- Amit Kumar Awasthi, Anand Kumar Shukla

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

Heard learned counsel for the petitioners and learned AGA for State-respondents.

In pursuance of order dated 04.12.2023, learned AGA has produced before this Court instructions dated 12.12.2023 sent by Sub-Inspector Radhe Lal Verma, police station Khiri, District Khiri, and the same is taken on record.

Learned AGA on the basis of instructions has stated that after the victim was recovered, her statement under Section 164 Cr.P.C. was taken and her medicolegal examination was also done on 28.11.2023. She was found to have been born on 01.07.2009 and was thereafter produced before the CWC which ordered her custody to be given to her parents. She is living with her parents since 29.11.2023.

It has been further submitted that initially, FIR was lodged under Section 363, 366 IPC. After age determination test was done and statement under Sections 161 and 164 Cr.P.C. were recorded, Section 376 IPC and Section 3/4 POCSO Act were added but after observation medical report and statement of doctor was recorded, offence under Section 3/4 POCSO Act was not found hence it was deleted and Section 5J(ii)/6 POCSO Act were added. Therefore, the offences that are now being invoked against the petitioners are Sections 363, 366, 376 IPC and Section 5J(ii) POCSO Act.

In view of the above, the writ petition is **dismissed** with liberty to the petitioners to file fresh petition.

Order Date :- 16.12.2023

Arnima