

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8900 of 2023

Petitioner :- Smt. Deepa Yadav And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. Civil Sectt. Lko And 2 Others

Counsel for Petitioner :- Archana Yadav, Brijesh Kumar Yadav

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

Heard learned counsel for the petitioner and learned A.G.A. for the State-respondents.

This petition has been filed praying the following reliefs:-

(a) Issue a writ, order or direction in the nature of certiorari thereby quashing the impugned first information dated 5.10.2023, vide case crime no. 181 of 2023 under Section 363, 366, 506 IP.C., lodged at Police Station- Musafir Khana, District- Amethi as contained in Annexure-1 to this writ petition.

(b) Issue a writ, order or direction in the nature of mandamus commanding the opposite party no.2 not to arrest or adopt any coercive measure against the petitioner no. 2 and not to take the petitioner no. 1 in to custody on the basis of impugned first information report lodged by the opposite party no 3 on 5.10.2023 vide case crime no. 181 of 2023 under Section 363, 366, 506 IP.C., lodged at Police Station- Musafir Khana, District- Amethi as contained in Annexure-1 to this writ petition.

It has been submitted by the learned counsel for the petitioners that both the petitioners are major and are intending to marry each other. The opposite party no. 3, who is mother of the petitioner no. 1, being unhappy with such relationship has lodged the impugned F.I.R. The allegation in the F.I.R. is of the petitioner that he has enticed away the minor daughter of the informant. The petitioner no. 1 is 18 years of age as evident from the date of birth mentioned in the educational record maintained in G.D. Public School, Gauriganj Tiraha, Musaffir Khana, District- Amethi, a copy which has been filed as Annexure-2 to the writ petition.

It has been submitted that initially F.I.R. was lodged on 12.8.2022 in case crime no. 217 of 2022 under Sections 363, 366, 376 I.P.C. and 3/4 of the POCSO Act, Police Station- Musafir Khana, District- Amethi. The statements under Section 161 and 164 Cr.P.C. were taken, in which she stated that she wishes to go with the petitioner no. 2 and that she had ran away from her home on her own. The CWC sent the petitioner no. 1 to Rajkiya Balika Grah. The petitioner no. 2 was arrested. His bail application was allowed and he was released on bail. The petitioner no. 1 has again approached the petitioner no. 2, as she wishes to live her life with him.

This Court has perused the impugned F.I.R. and also the statements of the victim recorded by the Magistrate concerned in case crime no. 217 of 2022.

The petitioner no. 1 has stated that she is 17 years of age.

In the instruction sent by Sub Inspector Indra Pal Singh, Sub Inspector, Police Station- Musafir Khana, District- Amethi it has been stated that in 2022 Deepa Yadav, Petition no. 1 was only 14 years of age. The date of birth mentioned in the educational document is 15.12.2006. This Court also having perused the Annexure No.1 finds that the date of birth of the petitioner no. 1 is 16.7.2008 and thus, the petitioner no. 1 is still minor in 2022 and minor in 2023 also.

Therefore, this Court finds no ground to show interference.

The writ petition is, **accordingly, dismissed.**

Order Date :- 21.11.2023

Anuj Singh