

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.177 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- VAISHALI(HAJIPUR)

=====

Raj Kishore Sharma S/o Ram Charitra Sharma, R/o Village - Majhauri, P.S. -
Vaishali (Belsar O.P.), District - Vaishali.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Home Department old Secretariat Patna.
2. Raja Shah @ Amit Ranjan, Son of Munnilal Shah, Resident of Majhauri, P.S. - Vaishali (Belsar O.P.), District - Vaishali.
3. Sandhya Kumari, Daughter of Raj Kishore Sharma, Resident of Majhauri, P.S. - Vaishali (Belsar O.P.), District - Vaishali.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Singh, Advocate
For the Respondent/s : Mr. Arvind Kumar No. 2, SC-17

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date: 01-09-2015

In the present application filed under Articles 226 & 227
of the Constitution of India, the petitioner has made the following
prayers in paragraph no. 1:-

“1. That this criminal writ application has been
preferred on behalf of the petitioner invoking the writ
jurisdiction of this Hon’ble Court seeking the
following reliefs:-

(1) For issuance of a writ in the nature of certiorari or
any other appropriate writ to set aside the order dated
12.1.2015 passed by the learned C.J.M., Vaishali in
Vaishali P.S. Case No. 340 of 2014 who has been
declared the minor girl Major without evidence which

is illegal and release the kidnapped girl recovered by the police without medical test.

(2) For holding the alleged marriage of minor daughter of petitioner as void ab-initio because the daughter of petitioner is minor.

(3) For issuance of a writ in the nature of Mandamus the learned C.J.M. Vaishali to constitute the medical Board for determination of actual age and to direct to release the minor girl to go along with father.

(4) For issuance of any other appropriate writ, order or direction which your lordships may deem fit and proper in the facts and circumstances of the case.”

2. Learned counsel for the petitioner has submitted that the victim is a minor and the court below ought to have released her in favour of the petitioner as he being the father of the victim was the best person to take her proper care.

3. On the other hand, learned counsel for the State has submitted that there is no illegality in the impugned order dated 12.01.2015 passed by the learned Chief Judicial Magistrate, Vaishali. He has further submitted that it would appear from the impugned order that the victim was assessed to be a girl aged about 20 years or above. The victim was examined by the learned Chief Judicial Magistrate and she had clearly stated that she was not abducted by anyone and out of her own sweet will, she had married the accused Raja Shah and she wanted to live with him in her matrimonial home.

4. I have heard respective counsel for the parties and perused the record.

5. The petitioner is father of one Sandhya Kumari. He has submitted a written report on 14.11.2014 stating therein that on 13.11.2014 at 6:00 p.m. his daughter Sandhya Kumari aged about 16 years went out to buy matches at a nearby shop. In the meantime, one Raja Shah armed with pistol came and abducted her on the point of pistol and demanded Rs. 2,00,000/- for her safe release.

6. On the basis of the written report of the petitioner, Vaishali (Belsar O.P.) P.S. Case No. 340 of 2014 was registered under Sections 36-A, 363 and 364-A read with 34 of the Indian Penal Code.

7. It would appear from the record that in course of investigation, the victim was recovered and her statement was recorded on 12.01.2015 by a Judicial Magistrate-1st Class, Vaishali. On the same day, the victim girl filed an application before the learned Chief Judicial Magistrate, Vaishali praying therein that she wanted to go with the petitioner. The petitioner also filed a separate application on the same day i.e. on 12.01.2015 praying therein to entrust the victim to him. The victim was brought before the learned Chief Judicial Magistrate, Vaishali. On query made by the Court, she stated that she was never abducted by the accused named in the

FIR. She also stated that she is a major girl aged about 21 years and out of her own sweet will she has married Raja Shah. She further stated that she wanted to go to her matrimonial home in order to live with her husband.

8. It would appear from the impugned order dated 12.01.2015 that the victim had disclosed her age to be 20 years before the Judicial Magistrate-1st Class who had recorded her statement under Section 164 of the Code of Criminal Procedure.

9. Taking into consideration the age of the victim and the desire expressed by her, the learned Chief Judicial Magistrate directed her release on furnishing a bond of Rs. 20,000/-. By the said impugned order daughter of the petitioner was set at liberty to go to any place of her choice.

10. Having regard to the facts and circumstances of the case, I find no illegality in the impugned order passed by the court below. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

U		T	
---	--	---	--