

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.351 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- GOPALGANJ

1. Shobha Kumari @ Puspanjali Rai W/o Piyush Kumar Rai Permanent resident of village - Rasauti, P.S. Kateya, District - Gopalganj

.... Petitioner/s

Versus

1. The State of Bihar, Through the Home Secretary Govt. of Bihar, Patna
2. The Home Secretary Government of Bihar, Patna
3. The Director General of Police, Bihar, Patna
4. The Deputy Director General of Police, Saran at Chhapra
5. The Superintendent of Police, Gopalganj at Gopalganj
6. The Deputy Superintendent of Police, Hathua, Gopalganj
7. The Officer - in - Charge (S.H.O.) of Kateya Police Station
8. Anand Rai S/o Late Gorakh Rai R/o village - Rasauti, P.S. Kateya, District - Gopalganj

.... Respondent/s

Appearance :

For the Petitioner/s : Mr.Dinesh Kumar Khoorpiwala & Mr. Satyendra Rai
For the Respondent/s : Mr.Amaresh Kumar Sinha,AC to GA9.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

28-01-2015

On the basis of a written report, submitted by the father of the petitioner to the officer-in-charge of Kateya Police Station, Gopalganj P.S. Case No. 12 of 2009 dated 16-1-2009 was registered for the offences punishable under sections 363 and 366A of the Indian Penal Code against one Pius Kumar Rai and others. In the written report submitted to the police, it has been stated that at the relevant time, the petitioner was aged about 15 years and was a student of Girls High

School. By filing the present application, the petitioner seeks mandamus to be issued against respondent nos. 5 to 7 to get her statement recorded under section 164 of the Code of Criminal Procedure before any Judicial Magistrate outside the district of Gopalganj.

In my view, the application is misconceived. It is a case of January, 2009. It has not been stated in the petition as to what happened in the intervening period of six years in respect of the investigation of the case. It is well-settled that the statement under section 164 of the Code of Criminal Procedure of any person can be recorded, only if the investigating agency sponsors him/her for such recording. The petition is quite vague. The stage of the case is not known. It is not known as to whether the accused persons, named in the F.I.R., have surrendered in court or not. In case they are absconding for the last six years, they cannot put forward the petitioner before the Court and make a prayer for recording her statement under section 164 of the Code of Criminal Procedure and that too outside the jurisdiction of the territorial Magistrate.

Regard being had to the facts and circumstances of the case, I am not inclined to entertain this application.

Accordingly, the application is dismissed.

B.Roy/-

(Ashwani Kumar Singh, J)

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