

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20503 of 2015

Arising Out of PS.Case No. -261 Year- 2014 Thana -GAYA MUFFSIL District- GAYA

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Anjali Kumari @ Anjani Kumari, Wife of Jitendra Manjhi and Daughter of Rajesh Paswan, Resident of village- Patwas, P.S.- Fatehpur, District- Gaya.

.... Petitioner

Versus

1. The State of Bihar
 2. The Senior Superintendent of Police, Gaya, District- Gaya
 3. The Superintendent, Nari Alpawas Home, Gaya
 4. Rajesh Paswan, Son of Mahavir Paswan, Resident of village- Jamuawan, P.S.- Mufassil, District- Gaya
 5. Jitendra Manjhi, Son of Late Nanhak Manjhi, Resident of village- Patwas, P.S.- Fatehpur, District- Gaya
- Opposite Parties
- =====

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Singh, Advocate

For the Opposite Party/s : Mr. Shyam Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 18-05-2015

The present application under Section 482 of the Code of Criminal Procedure has been filed for quashing of the order dated 18.12.2014 passed in Sessions Trial No. 217 of 2014 by the learned Additional Sessions Judge-5th, Gaya whereby and whereunder the petition dated 18.12.2014 for release of the petitioner from Nari Alpawas Home, Gaya in connection with Muffasil P.S. Case No. 261 of 2014, has been rejected.

The father of the petitioner, namely, Rajesh Paswan has instituted the aforesaid police case which has been registered for the

offence punishable under Section 366-A of the Indian Penal Code on 6.6.2014. In the FIR, it has been stated that one Sunita Devi, wife of Ram Swaroop Majhi was instrumental in abducting his minor daughter of the informant aged about 14 years. In course of investigation, the petitioner was recovered. She made her statement under Section 164 of the Code of Criminal Procedure in which she contended that out of her own will she had married one Jitendra Manjhi about 3-4 months back. The petitioner was sent for medical examination and, in the opinion of the medical Board, the petitioner was found to be less than 16 years on 27.6.2014.

The informant of the case had filed an application on 20th June, 2014 for release of the petitioner in his favour. However, the petitioner refused to go along with him. She had submitted a written application that she had threat to her life at the hands of her father. In that event, she has been ordered to be kept in Nari Alpawas Home, Gaya.

Learned counsel for the petitioner has submitted that as per medical report, the petitioner is aged about 17 years and for all practical purposes, she can be treated to be major. He has placed reliance in this regard on a judgment of this Court passed on 23.09.2010 in the matter of **Sahebi Khatoon @ Sahebi vs. State of Bihar [C.W.J.C. No. 991 of 2010]**.

I have perused the aforesaid judgment dated 23.09.2010. The facts of the present case are not identical to the facts of **Sahebi Khatoon @ Sahebi**. In that case, the victim was carrying a pregnancy of 32-34 weeks and as per her own disclosure, she was aged about 20 years but the Court had assessed her to be aged about 17 years, whereas in the present case, the father of the victim has claimed that she was aged about 14 years and the

medical report disclosed that she was less than 16 years on the alleged date of occurrence.

Admittedly, in the present case, the petitioner has not attained majority. Under that circumstance, she cannot be directed to be released as per her own choice. In that view of the matter, I find no error in the order passed by the court below.

Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

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