

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.128 of 2016

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Ram Babu Singh, Son of Shri Ramchandra Singh, Resident of Village - Semra, P.O. - Bandhu Chapra, P.S. - Koilwar, District -Bhojpur at Ara.

.... Petitioner

Versus

1. The State of Bihar Through The Director General of Police, Old Secretariat, Patna, Bihar
2. The Superintendent of Police, District - Bhojpur at Ara.
3. The Deputy Superintendent of Police, Bhojpur at Ara.
4. The Station House Officer (SHO), P.S. - Barhara, District - Bhojpur.
5. Subodh Singh, Son of Janakdhari Singh,
6. Tripurari Sharan Singh, Son of Subodh Singh,
7. Neelam Devi, Wife of Subodh Singh, Daughter - in - law of Janakdhari Singh,
8. Umesh Singh, Son of Janakdhari Singh, All the aforesaid 5 to 8 respondents are residents of village - Semra, P.S. - Barhara, District - Bhojpur.
9. Niranjana Kumar, Son of Late Bijendra Rai, Resident of Village - Bohra, P.S. - Bihta, District - Patna.
10. Puja Kumari, Minor Daughter of Shyam Babu Singh, Resident of Semra, P.S. - Barhara, District - Bhojpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Binit Kumar, Advocate
For the Respondent/s : Mr. Mr. Ram Balak Mahto, AG
Mr. P N Sharma, AC to AG

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
ORAL ORDER

2 24-02-2016

Heard learned counsel for the parties.

Ram Babu Singh, brother of Shyam Babu Singh, father of Puja Kumari, has filed the present writ petition for quashing of the order dated 03.11.2015, passed by the Chief Judicial Magistrate, Bhojpur at Ara, seeking direction to release respondent no. 10, Puja Kumari, said to be in illegal custody of respondent nos. 5 to 9.

In the order dated 03.11.2015, the learned Chief

Judicial Magistrate has found the age of Puja Kumari as more than 18 years on the basis of her statement when she stated her age to be 19 years, whereas in proceeding under Section 164 of the Code of Criminal Procedure, 1973, the Judicial Magistrate has found the age of the girl as 18 years.

The petitioner is the uncle of the victim. Uncle is not a guardian competent to file the present petition as per Section 2(wa) CrPC. Still further, the birth certificate produced by the petitioner was not produced before the Chief Judicial Magistrate. This Court will not examine the question of facts in the first instance unless the same was produced before the competent court.

In view thereof, the present petition is dismissed as not maintainable at the instance of the uncle of the victim girl.

(Hemant Gupta, J)

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