

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23620 of 2016

Arising Out of PS.Case No. -192 Year- 2015 Thana -KANTI District- MUZAFFARPUR

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1. Pooja Kumari @ Pooja Devi, wife of Anil Sah resident of village - Saeen
 Brijlal, P.S. Kanti, District - Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bela Singh-Advocate

For the Opposite Party/s : Mr. R.B. Ray Raman(A.P.P.)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

04 09-08-2016

Learned counsel for the petitioner submits that she

simply wants to withdraw this petition.

2. Before allowing the same, the salient feature relating to instant petition is to be taken note of. One, Prerna Kumari had filed Cr. Revision No.255 of 2016 asking for her release and the Court after obtaining the medical report had allowed the same vide order dated 01.04.2016. During course thereof, the Court had also directed the Superintendent, Nari Niketan, Gaighat, Patna to get all the detainee medically examined followed with submission of report and after obtaining the same vide order dated 14.07.2016 found so many teenagers including the petitioner to be major on the basis of the medical report and accordingly, directed the Superintendent, Nari Niketan, Gaighat,

Patna to produce the respective girls before the concerned Court with the copy of the order, who will release the same with an undertaking.

3. The Hon'ble Apex Court had taken into consideration the process whereunder age of the victim was to be ascertained in *Jarnail Singh v. State of Haryana 2013 Cr. Law Journal 3976* wherein it has been laid down that the procedure so prescribed under Rule-12 of the Juvenile Justice Act should be made applicable during course of ascertainment of age of the victim/ prosecutrix. The aforesaid judgment could not be brought up before the concerned Coordinate Bench at the time of passing of the relevant orders. Had there been, no such kind of order would have been passed.

4. From the order impugned, it is evident that learned lower Court took into consideration the certificate of the first attendant school wherefrom date of birth of victim/ petitioner happens to be 03.05.2000.

5. Though, it happens to be the prerogative of the petitioner to withdraw the petition, but the same would not be defeat the ends of justice.

6. That being so, even allowing the prayer of the petitioner whereupon instant petition is dismissed as withdrawn,

the learned lower Court is directed while considering the prayer of the petitioner in pursuance of Cr. Revision No.255 of 20016 will also consider the observations so made at present occasion in the background of the principle so laid down by the Hon’ble Apex Court in *Jarnail Singh v. State of Haryana reported 2013 Cr. Law Journal 3976.*

(Aditya Kumar Trivedi, J)

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