

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.663 of 2016

Arising Out of Saraiya PS.Case No. 55 of 2016 Thana –Saraiya,
District- MUZAFFARPUR

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1. Mahabir Rai, Son of Late Jagdish Rai, Resident of Village Siswani, Police Station Vaishali, District Vaishali.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Home, Bihar, Patna.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The Director General of Police, Government of Bihar, Patna.
4. The Deputy Inspector General of Police, Muzaffarpur.
5. The District Magistrate, Muzaffarpur.
6. The Superintendent of Police, Muzaffarpur.
7. The Station House Officer Saraiya Police Station Muzaffarpur
8. The Warden State After Care Home, Patna City, Patna.
9. Anita Devi, wife of Anil Choudhary, Resident of Village Ufraul, Police Station Saraiya, District Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shravan Kumar, Sr. Advocate
Mr. Dinesh Maharaj
For the Respondent/s : Mr. Ajay Mishra, APP

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 28-07-2016

Heard Mr. Shravan Kumar, learned Senior Counsel for the petitioner, and Mr. Ajay Mishra, learned Additional Public Prosecutor, appearing for the State.

With the help of this writ petition, made under Article 226 of the Constitution of India, the petitioner has sought for issuance of



appropriate writ/writs, order/orders, direction/directions, in the nature of *Habeas Corpus*, directing and commanding the respondents to release the alleged victim girl, namely, **R K** and hand her over to the present writ petitioner, who claims to be her father-in-law.

The material facts, for the purpose of final disposal of this writ petition, are, in brief, that Saraiya Police Station Case No. 55 of 2016 has been registered under Sections 363, 366A read with Section 34 of the Indian Penal Code and, on the basis of the First Information Report, lodged by mother of the alleged victim alleging to the effect, *inter alia* that accused persons, namely, Umesh Rai, Ramesh Rai and Dinesh Rai, came at her house, at 11.00 A.M., and took away her daughter, namely, **R K**, aged about 14 years, a student of Class IX in Vaishali High School, on the pretext that she was to get money at the school and, later on, the informant came to learn that she had been kidnapped and though she searched for her daughter's whereabouts, her daughter could not be traced.

During course of investigation of the case aforementioned, the victim girl was recovered and son of the petitioner, namely, Ravi (Bhushan Kumar) has also been arrested as being one of the accused, who had, according to the informant, kidnapped her daughter.

It is in the backdrop of the above allegation that the present writ petition has been filed by the father of the accused, who has,

according to the informant, kidnapped her minor daughter.

It has been sought to be established before us that the victim girl is major inasmuch as the *Adhar Card* shows that she is major, the medical opinion shows that she is 17-18 years old and as per her school certificate, she was born on 19.01.1999.

In the light of the school certificate, the victim girl is minor and, therefore, the question of directing her custody to be handed over to the present petitioner, who happens to be father of the accused, who had allegedly kidnapped the minor daughter of the informant, does not arise at all.

In the light of the fact that the present writ petitioner raises disputed question of fact, namely, as to whether the victim girl, on the alleged date of occurrence, was minor or not, we do not find that the present writ petition is sustainable in law.

This writ petition is dismissed accordingly.

Before parting with this writ petition, we must point out that in terms of the order, dated 30.05.2016, passed in Criminal Revision No. 461 of 2016, the Juvenile Justice Board, (West) Muzaffarpur, was to determine the age of the alleged victim girl, but the Juvenile Justice Board, (West) Muzaffarpur, has not yet taken a decision in the matter and the case has been fixed on 02.08.2016.

Having regard to the facts and circumstances of the present

case, we hereby direct the Juvenile Justice Board, (West) Muzaffarpur, to expeditiously deal with the matter and dispose of the same in accordance with law, preferably, within a period of four weeks from today.

Send forthwith a copy of this order to the Juvenile Justice Board, (West) Muzaffarpur, for doing the needful.

(I. A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

A.I./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.08.2016
Transmission Date	01.08.2016