

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6285 of 2016

Arising out of P.S. Case No. -286 Year- 2014 Thana -MAHNAR District- VAISHALI (HAJIPUR)

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Md. Imran, son of Md. Mustauim, resident of village - Rasulpur, P.S. Hayaghat, District - Darbhanga, Presently residing at Indra Enclave Nagloi, P.S. New Delhi, District - New Delhi

.... Petitioner

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna
2. The Inspector General of Police, Tirhut Range, Muzaffarpur
3. The Deputy Inspector General of Police, Tirhut Range, Muzaffarpur
4. The Superintendent of Police, Vaishali at Hajipur
5. Deputy Superintendent of Police, Mahnar in the District - Vaishali at Hajipur
6. Officer In Charge, Mahnar Police Station, District Vaishali at Hajipur
7. Jai Ram Singh, son of late Ram Lakhan Singh, resident of village - Fatikwara, P.S. Mahnar, District - Vaishali at Hajipur
8. Smt. Asha Devi, wife of Jai Ram Singh, resident of village - Fatikwara, P.S. Mahnar, District - Vaishali at Hajipur
9. Nidhi Kumari @ Saba Parween, wife of Md. Imran, presently residing under Opposite partys No. 7 & 8, at Village - Fatikwara, P.S. Mahnar, District - Vaishali at Hajipur

.... Opposite Party/s

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Appearance :

For the Petitioner : Md. Helal Ahmad, Advocate.
For the State : Mr. Binod Kr. 2, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 23-11-2016 Heard learned counsel for the petitioner and learned counsel for the State.

This application under Section 482 of the Code of Criminal Procedure has been filed for quashing of the order dated 15th January, 2015 passed by the learned Additional Sessions Judge 1st-cum-Special Judge, POCSO Act, Vaishali, Hajipur, in Mahnar P.S. Case No. 286 of 2014 whereby the victim Nidhi

Kumari has been handed over in favour of her mother.

It is contended by the learned counsel for the petitioner that the victim was major. Out of her own, she left the house of her parents on 26th April, 2015 and came to the house of the petitioner. The Medical Board has assessed the age of the victim as 19 years and, hence, she ought to have been handed over to the petitioner, who is her husband instead of her mother by the court below.

Learned counsel for the State has opposed the application. He has drawn my attention towards the First Information Report wherein the mother of the informant has disclosed the age of the victim to be 15 years. He has also drawn my attention towards the date of birth of the victim recorded in her school register, as mentioned in the impugned order.

I have heard the parties and perused the record. The case has been instituted under Sections 372 and 373 of the Indian Penal Code as also Sections 8 and 18 of Protection of Children from Sexual Offences Act. The mother of the victim has disclosed the age of the victim to be 15 years. The impugned order goes to suggest that the date of birth of the victim recorded in the school register is 4.2.1999.

It is well settled that the opinion of the Medical

Board regarding determination of age is always tentative. It is the parents, who are supposed to know the date on which their children are born. The school register records the date of birth of the victim as 4.2.1999. There is no reason to doubt the veracity of the entries made in the school register. Further, there is no presumption in law that parents do not give correct date of birth of their children while admitting them in school.

In that view of the matter, taking into consideration the date of birth of the victim, who had not even completed 16 years of age, if the court below has released her in favour of her parent, I see no illegality with such order.

Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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