

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.461 of 2016

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Ramni Kumari @ Ramani Kumari, daughter of Sri Anil Choudhary and wife of Ravi Bhushan Rai, resident of village – Shishvani, P.S. – Vaishali, District – Vaishali.

.... Petitioner

Versus

1. The State of Bihar
2. Anita Devi, wife of Anil Choudhary, resident of village – Ufraul, P.S. – Saraiya, District – Muzaffarpur.
3. Mahabir Rai, son of Late Jagdish Rai, resident of village – Shishvani, P.S. – Vaishali, District – Vaishali

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Pravin Kumar

For the Respondent/s : Mr. Md.Ansarul Haque(App)

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
ORAL ORDER

2. 30-05-2016

This Revision Application is being directed

against order dated 07.04.2016 passed by the learned Sub-Divisional Judicial Magistrate, (West) Muzaffarpur, in a case arising out of Saraiya P.S. Case No. 55/2016 (G.R. No. 396/2016).

The petitioner is the victim and she claims to be a major. She, thus, claims that she cannot be kept in a remand home and she has to be released to go and live with her husband or her husband's family. She professes that she has married to one Ravi Bhushan Rai @ Pappu Rai, who is facing prosecution under Section 366A I.P.C. and other Sections of the Indian Penal Code. At the behest



of mother of the petitioner, learned Sub-Divisional Judicial Magistrate did not accede to the prayer of the petitioner on the ground that, as per school certificate, she is a minor and in view of Rule 12 of 2007 Rules framed under Juvenile Justice Act, it is that certificate which would be presumed to be the correct certificate in respect of age of the juvenile. According to that certificate she is not at the age of 18 years.

Considering the aforesaid fact and after hearing Sri Ajay Thakur, learned Advocate in support of this application, I am of the view that, firstly, when a question arises, whether a person is a juvenile or not? It was proper for the criminal court to refer the matter to the Juvenile Justice Board for determination of the age. Secondly, if as per school certificate, petitioner is a minor then this revision application, filed by the petitioner, is not maintainable unless it was filed by her guardian. The prayer being made to release her not to go to her parents, to her husband or her in-laws cannot, thus, be allowed at this moment.

The Revision Application is, accordingly, dismissed.

The Sub-Divisional Judicial Magistrate,
West, Muzaffarpur, is directed to refer the matter to the
Juvenile Justice Board for determination of age of the
petitioner in accordance with law, and if she is found to be
a minor the Juvenile Justice Board would, thus, be
competent to pass orders in view of Juvenile Justice (Care
and Protection of Children) Act as amended.

(Navaniti Prasad Singh, J.)

Rajeev/-

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