

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1109 of 2016

Arising out of P.S. Case No. - null Year - null Thana - null District - KISANGANJ

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Begam Khatoon, Wife of Md. Ishaque, Resident of Village – Guna Chourasi, P.S. Bahadurganj, District Kishanganj

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Kishanganj
2. The Police Superintendent, Kishanganj
3. The Superintendent, Mahila Help Line, Kishanganj

.... Respondents

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Appearance :

For the Petitioner : Mr. Radha Mohan Singh, Advocate

For the Respondents : Mr. Apurva Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 08-03-2017

Heard learned counsels for the parties.

2. According to First Information Report of Kishanganj

(Mahila) Police Station Case No. 28 of 2016, the informant Police Officer of Kishanganj (Mahila) Police Station was informed that immoral trafficking of minor girls is going on in village Prem Nagar. The Police Officer raided different houses and found some minor girls along with male members in objectionable position from different houses.

3. This matter is concerned with the raid committed in the house of Md. Ishaque, the husband of the petitioner from where two girls Manisha, aged about 19 years and Zeenat @ Muskan, aged about 13 years along with a man were apprehended. Both the girls were sent to Mahila Help Line where they are still lying. The girls



disclosed to the police that they have been brought by Md. Ishaque and are being abused sexually by different customers.

4. This writ jurisdiction has been invoked to quash the order dated 20.09.2016 passed by the learned Additional Sessions Judge 1-cum-Special Judge, Kishanganj in connection with the aforesaid Kishanganj (Mahila) Police Station Case No. 28 of 2016 whereby the learned court below turned down the prayer of the petitioner to release the victim-girls Muskan and Manisha in favour of the petitioner.

5. The prayer is, on the ground, that the victims are the daughters of the petitioner and, as such, petitioner is entitled to their custody and the court below has wrongly refused the prayer without considering the statement of the girls under Section 164 Cr.P.C. that they want to go with their parents.

6. On the other hand, the State-respondents have filed their detail counter affidavit stating therein that in paragraph 8 of the writ application, the petitioner claims that she is issueless and she has adopted the victim-girls in their childhood and maintaining them as daughters. The aforesaid is contrary to the Muslim Law which does not have any concept of adoption. Moreover, both the girls are minors, hence, their proper security and welfare requires them to be in the Mahila Help Lind itself. It has further been submitted that the



impugned order would reveal that the learned court below has taken into consideration that the petitioner is not natural guardian of the victim-girls.

7. The disputed question of fact cannot be looked into in exercise of the writ jurisdiction. Moreover, prima facie, there is no material to substantiate the claim of the petitioner to get release of the victim-girls in their favour, hence, I am not inclined to allow the prayer of the petitioner in exercise of this jurisdiction of judicial review.

8. However, Aadhaar cards of the two girls enclosed at page 23 and 24 of the writ application shows that date of birth of Manisha is 10.08.1996 and date of birth of Jinat is 25.05.2000. Apparently, Jinat is still a minor girl. However, Manisha has attained majority. Therefore, Manisha has liberty to go wherever she desires. If Manisha makes such prayer before the court below, the court below shall pass necessary order in accordance with law.

9. With the aforesaid observation, this writ application stands disposed of.

(Birendra Kumar, J)

Kundan

AFR/NAFR	
CAV DATE	
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