

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.844 of 2017

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Radha Kumari, daughter of Baldeo Ram, wife of Mukesh Ram, resident of Mohalla- Khairwa Tola, Police Station- Chanpatia, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Home Department.
2. Mukesh Kumar Verma, The Sub-Inspector of Police, Chanpatia, Police Station, District- West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brij Kishor Mishra

For the Respondent/s : Mr. Md. Nasrul Huda Khan (Sc1)

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

5 18-12-2017 The petitioner is victim of alleged kidnapping / abduction for which Chanpatia P.S.Case No.149 of 2017 was registered under Sections 366, 504, 34 of the Indian Penal Code on the written report of the father of the petitioner.

On recovery the statement of the petitioner was recorded under Section164 of Cr.P.C. wherein she disclosed her age as 18 years. She has further stated that no one had abducted her rather she had voluntarily left her house. Thereafter she married with Mukesh Ram in the Narkatiaganj temple. She has further expressed her desire to go with Mukesh Ram.

There is no school document of the age of the petitioner. According to the opinion of the doctor who medically examined



the petitioner the age of the petitioner was assessed between 17 to 19 years as on 29.04.2017 and the date of occurrence is 24.04.2017.

On bare observation, the learned Magistrate before whom the victim was produced, found her minor. The Magistrate has recorded her statement under Section 164 Cr.P.C. on 01.05.2017 wherein she expressed her desire not to go with her father. She further disclosed that there is no proof of her date of birth.

The informant respondent no.3 appeared. However, no counter affidavit has been filed. By the same order dated 01.05.2017 passed in the aforesaid police case the learned Magistrate remanded the petitioner to girls remand home, Gaighat, Patna. The order of remand is under challenge in this Cr. Writ application on the ground that the petitioner is, in fact, a major. She is victim of the crime. Hence, she has liberty to go wherever she desires.

Learned counsel for the petitioner has placed reliance on the case of Sahebi Khatoon @ Sahebi vrs. State of Bihar and ors. Vide Cr.W.J.C. No.991 of 2010 which was disposed of on 23.09.2010 by Division Bench of this Court. The petitioner of that case was treated as major giving the benefit of error of two years



in assessment of age in favour of the petitioner.

Learned counsel for the State respondents in their counter affidavits have specifically stated that the case was found a mistake of fact by the investigating agency and supervising authority.

Considering the aforesaid binding precedent in Sahebi Khatoon's case, let the petitioner be released from the remand home at her wishes wherever she desires to go.

With the aforesaid observation, this writ application is disposed of.

(Birendra Kumar, J)

AnilKrSinha/-

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