

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1113 of 2017

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Annu Kumari, D/o Ranjeet Kumar Rai, W/o Shashi Kumar, R/o Village-
Mukundpur, P.S.- Sarai, District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar.

2. Ranjeet Kumar Rai, S/o Naresh Rai, R/o Village- Mukundpur, P.S.- Sarai,
District- Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Singh, Advocate.
For the State	:	Mr. Ajay Kumar, APP
For the O.P. No. 2	:	Mr. S.Arshad Alam, Advocate.
		Mrs. Anjum Perveen, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 15-12-2017

Heard learned counsel for the petitioner and learned
counsel for the State as well as learned counsel for the O.P. No. 2.

2. Petitioner seeks quashing of order dated 16.09.2017
passed by the learned District and Sessions Judge, Vaishali at Hajipur
in Cr. Revision No. 121 of 2017 whereby order dated 17.08.2017
passed by the learned A.C.J.M.-13th, Hajipur in Sarai P.S. Case No.
139 of 2017 declaring the petitioner major and directed to go with her
husband, was set aside and declared a minor and husband of the
petitioner was directed to produce the victim girl before the trial court
in order to obtain her desire whether she wants to go with her legal
guardian and parents or to stay in Nari Niketan till she attains the age
of majority.



3. The brief facts giving rise to the case is that petitioner's uncle lodged Sarai P.S. Case No. 139 of 2017 regarding kidnapping of his niece, the petitioner, by the accused persons for the purpose of marriage. It is also alleged that petitioner is minor studying in Class-IX in Karnpura High School. Later on petitioner was recovered along with accused and her statement was recorded under Section 164 Cr.P.C. before the Magistrate, who assessed her age 16 years though she disclosed her age 19 years. She was further examined by duly constituted Medical Board by the orders of the court and the Medical Board assessed her age in between 17 to 19 years on the basis of radiological examination. The informant-O.P. No. 2, at the revision stage, produced a certificate issued by Smt. Rama Devi High School, Karnpura in which her age is recorded as 08.05.2003 and also filed birth certificate of the girl, though registered in the year 2014, in which her age is also recorded as 08.05.2003.

4. Learned counsel for the petitioner submits that girl is major in view of her statement as well as the report of the Medical Board, so in this view of the matter, finding of the revisional court is illegal declaring her minor, so she should be allowed to go with her husband.

5. Contrary to that, learned counsel for the O.P. No. 2 submits that the age of the girl was only 14 years at the time of



occurrence and in her school certificate her age is 08.05.2003, which is recorded much prior to the alleged occurrence even in the birth certificate issued by the appropriate authority her date of birth is recorded 08.05.2003. So in view of these documents, she is conclusively minor moreover there is always probability of error in the assessment of age done by the Medical Board by two years to either side.

6. Having considered the rival submissions and on perusal of record, the Court finds that both the courts below failed to properly ascertain the age of the girl because of non-application of appropriate procedure. It is admitted that the petitioner was a student of Class-IX and studying in Karanpura High School prior to the occurrence. She was admitted in the school many years ago prior to the occurrence. Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 contains a detail provision for determination of age. In order to undertake the process of age determination, following evidence may be obtained :

- (i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;
- (ii) The birth certificate given by a corporation or a municipal authority or a panchayat;
- (iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of



the Committee or the Board.

Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order”

7. The aforesaid procedure in the present case has not been followed. Therefore, the impugned order as well as order ascertaining age by the A.C.J.M.-XIII, Hajipur dated 17.08.2017, both orders are set aside and the trial court is directed to make proper enquiry for age determination of the petitioner in view of aforesaid provisions and accordingly declare the age of the petitioner. So till her age is properly ascertained, it is desirable that she may be kept in the *Nari Niketan* for that period. The court is directed that she be sent to *Nari Niketan* during this period and to pass appropriate order after determination of her age.

8. Accordingly, this application stands disposed of with aforesaid observation. The petitioner is directed to appear before the trial court in the first week of January, 2018.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
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