

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.301 of 2016

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Rekha Devi

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha

For the Respondent/s : Mr. Renuka Ratnakar (App)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 03-04-2018

The petitioner, who is the mother of the victim girl, is aggrieved by the order dated 11.03.2016 passed by the learned A.C.J.M., Danapur in connection with Bihta P.S. Case No. 794/2015, whereby he has directed for the release of the daughter of the petitioner from the remand home with permission to her to go to the person whom she claims to have married.

Apart from the aforesaid order directing for release of the daughter of the petitioner from the remand home, the person to whom she has been betrothed, has also been directed to ensure her presence before the court below on dates when she is required to be present.

A case was lodged by the petitioner vide Bihta P.S. Case No. 794/2015 referred to above for the offences under Sections 366 and 366A/34 of the Indian Penal Code. During the course of the investigation, the daughter of the petitioner gave her 164 statement before the Magistrate clearly stating that she does not want to go to



her parents because they have threatened her of being killed. Of her own volition, she has married one Laxman on 11.09.2015 in a temple and she wishes to stay with him.

The learned Magistrate, who got the statement of the daughter of the petitioner recorded, has assessed the age of the victim as 18 years. Before the court below, a certificate of Bihar School Examination Board was furnished which disclosed the date of birth of the victim to be 30.12.1999. The court below before passing the order was under a dilemma. No doubt, the victim was not a major on the date when she had married the aforesaid Laxman but taking into account that the victim was not an accused, it went by the considerations, viz. that in her 164 statement she had unequivocally disclosed her intentions of not going to her parents and that at that time she had disclosed that she was 18 years of age. The daughter of the petitioner may be lesser than 17 years on the date of the occurrence, but on the date when the order was passed, she was more than 17 years of age and had expressed her desire to go with the person whom she had married of her own choice. The court has also observed with a refrain that despite making efforts by the court, the report of the Medical Board which was constituted for the purpose of ascertaining the age of the victim, was not brought before it.

Under such circumstances, the court below relied upon the 164 statement, the assessment of the Magistrate and the statement



of the victim girl herself that she has crossed the age of majority, entitling her to choose a life partner on her own.

Under such circumstances, this Court does not feel inclined to interfere with the order impugned dated 11.03.2016.

The arguments advanced on behalf of the petitioner that in the event of a dispute with respect to age, the learned Magistrate ought to have awaited the report of the Medical Board does not find favour with this Court. It is a matter of common knowledge that the conditions in the remand home are not conducive for the occupants and in the present case when the victim is almost near the age of majority, it would have been improper for her to be retained in the remand home; more so, when she claims to have married one Laxman who too was ready to bring her before the court as and when it was required. The effort of the petitioner, who is the mother of the victim, appears to be guided by motives other than for the benefit of the victim concerned.

The present revision petition has not merit. Hence, it is dismissed.

(Ashutosh Kumar, J.)

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