

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.4209 of 2016

Arising Out of PS.Case No. -174 Year- 2014 Thana -KORHA District- KATIHAR

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Ravi Kumar, son of Laxman Mukhiya, resident of Haldi Kol, P.S. Bhawanipur,
Distt. Purnea.

.... Petitioner/s

Versus

1. The State of Bihar, through the District Magistrate, Katihar .
2. The Superintendent of Police, Katihar.
3. The District Child Welfare committee, Araria.
4. The Officer -in-Charge, of Korha, P.s Katihar.
5. Sri Tarun Kumar Jha, son of Bishwanath Jha, r/o Bizi, P.S. Korha, Distt. Katihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Advocate.
For the Opposite Party/s : Mr. Parmeshwar Mehta, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 17-09-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 12.02.2015 passed by learned Chief Judicial Magistrate, Katihar, in Korha P.S. Case No. 174 of 2014, G.R. No. 3100 of 2014 by which the learned Magistrate has rejected the prayer of the petitioner to release the victim Puja Kumari from Remand Home.

2. The prosecution case in brief is that daughter of the informant namely, Puja Kumari, aged about 16 years had gone to ease herself at about 11.00 p.m. but she did not return back. During search, the informant learnt that she had been seen going towards



Purnea along with the petitioner and others. On the basis of aforesaid written report, the instant case has been registered.

3. Heard learned counsel for the petitioner and learned counsel for the State.

4. Notice was issued to the opposite party No. 5 but he did not appear in Court.

5. Counsel for the petitioner submits that the victim girl has attained majority and she wants to live with the petitioner as she has performed marriage with him. She was not enticed away by the petitioner. She out of her own free will had gone to Gujarat along with petitioner, where they both have performed marriage. She has stated in her Statement under Section 164 Cr. P.C. before police that for last four years she was in love with Ravi Kumar and she is pregnant of three months. She wants to live with her husband.

6. Counsel for the petitioner has relied upon a decision reported in *2010 (3) PLJR 997 (Puja Kumari, wife of Shri Vishal Vrs. The State of Bihar and Others)* and has submitted that keeping the victim girl in Remand Home is illegal.

7. Learned counsel for the petitioner has further submitted that court below has mentioned in the impugned order that Magistrate has assessed the age of victim girl at the time of recording her statement under Section 164 Cr. P.C. as 20 years and victim girl



has stated her age to be 21 years. The victim girl has been medically examined, copy of which has been enclosed as Annexure-4. As per Medical Report, the age of victim girl at that time was 18 to 19 years.

8. The court below has relied upon the registration card of victim girl namely, Puja Kumari issued by Bihar School Examination Board, Patna, which shows her age between 18 to 19 years. As per registration certificate, date of birth of victim girl is 04.02.2000. The court below has mentioned in the impugned order that victim girl was minor at that time. Therefore, the court below has directed the mother of the petitioner to produce the victim girl before District Child Welfare Committee, Araria, for proper protection and safety.

9. This Court finds that Magistrate has assessed the age of victim girl as 20 years at the time of recording statement under Section 164 Cr. P.C. As per Medical Report also the victim girl was major.

10. This Court in the judgment reported in **2010 (3) PLJR 997 (Puja Kumari, wife of Shri Vishal Vrs. The State of Bihar and Others)** has held that keeping the victim girl in After Care Home after attaining majority is not proper, because the victim girl after attaining majority is free to take her own decision.

11. In such circumstances, the impugned order dated



12.02.2015 passed by learned Chief Judicial Magistrate, Katihar, in Korha P.S. Case No. 174 of 2014, G.R. No. 3100 of 2014 is hereby quashed.

12. The petitioner is directed to file necessary petition in the court below for release of victim girl in his favour within 15 days from the date of receipt of this order. The court below will pass appropriate order in accordance with law after looking into the fact that victim girl was found major at the time of recording statement under Section 164 Cr. P.C. and Doctor has also found her to be major at that time. The court below will also look into the order passed by this Court reported in *2010 (3) PLJR 997 (Puja Kumari, wife of Shri Vishal Vrs. The State of Bihar and Others)* wherein it is held that if victim girl has attained majority, then she should be allowed to be released from After Care Home. The Court below will pass final order in the case within a period of one month from the date of filing of such petition on behalf of petitioner.

13. This Criminal Miscellaneous application is accordingly disposed off.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	25/09/2018
Transmission Date	25/09/2018

