

\$~9

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1094/2018**

BUDHULAL TUDU

..... Petitioner

Through: Mr.Jai Bansal and Mr.Sudhir KV,
Advocates with the Petitioner in
person.

versus

CHILD WELFARE COMMITTEE-VIII & ANR. Respondents

Through: Mr.Rahul Mehra, Standing Counsel
(Crl.) with Mr.Chaitanya Gosain,
Advocate for State.
Insp. Shiv Raj Singh Bisht, SHO, P.S.
S.J. Enclave and SI Dharmendra and
W/Complainant. Meena, P.S. S.J.
Enclave, New Delhi.
Ms.Nikita Kataria, Support Person
(CWC), Kalkaji (South-East) in
person.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S.MEHTA

ORDER
16.04.2018

%

Crl.M.A.No.6749/2018 (Exemption)

1. Allowed, subject to all just exceptions. Application stands disposed of.

W.P.(CRL) 1094/2018

2. This is a petition under Article 226 of the Constitution of India filed by the petitioner Budhu Lal Tudu praying that a direction be issued to Child Welfare Committee-VIII (CWC) to produce his major daughter Lilmuni

before this Court and have her custody handed over to him.

3. On receipt of advance notice, a status report has been filed by Inspector Shiv Raj Singh Bisht of Police Station (PS) Safdarjung Enclave, New Delhi wherein it is stated that on 24th February 2018, a PCR call was received at PS R.K. Puram regarding a girl who was found at the bus stand of Sector-12 and later identified as Lilmuni, the daughter of the Petitioner herein, resident of Khana Patesari Town/Village Kharna, Anchal-Thaicurganj, District Kishanganj, Bihar. It is stated that since she did not want any action taken at that time, Lilmuni was sent to the Nirmal Chhaya shelter.

4. Upon enquiry, it transpired that Lilmuni was working in a house in Safdarjung Enclave as a maid. When produced before the CWC, an ossification test was ordered and legal action was directed against the placement agency. The case was transferred to PS Safdarjung Enclave.

5. On 9th March, 2018, an ossification test was conducted. Lilmuni's statement under Section 164 Cr PC was recorded on 12th March, 2018. In the said statement, she alleged that she had been placed with her employer Abhishek by the placement agency 'Laxmi Placement Services' and that even though she was employed there, she was not paid any salary. She alleged that the placement agent used to touch her body parts inappropriately and would also beat her. Her further statement was recorded on 15th March, 2018 at Global Home, Sangam Vihar, New Delhi where she is presently housed.

6. Since the doctor after her ossification test opined her age as being between 16-18 years, FIR No.60/2018 was registered under Section 8 of POCSO Act, 2012 and Sections 75 and 79 of the Juvenile Justice (Care and Protection of Children) Act, 2015 at PS Safdarjung Enclave, New Delhi.

7. On 24th March 2018 the employer was interrogated and revealed that the records with the placement agency show the age of Lilmuni to be 20 years. On 4th April 2018, the agent of the placement agency was questioned. According to him, the Petitioner had requested him to find a job for Lilmuni as she was 20 years old. After that, the girl was brought to the placement agency by her father's cousin. It is stated that he has been served with a notice under Section 41-A Cr PC and was bound down.

8. Learned counsel for the Petitioner points out that the age of Lilmuni is over 18 years as her date of birth as per Gram Panchayat record. The identity card issued by Gram Panchayat shows her date of birth to be 3rd January 2000.

9. Mr. Rahul Mehra, learned Standing Counsel for the State informs the Court that Lilmuni is present in Court today having been brought by the SHO from Global Home at Sangam Vihar. Mr.Mehra further states that on speaking to Lilmuni, she instructed him that she wishes to return to her family and proceed to her village in District Kishanganj, Bihar.

10. The Petitioner, who is a resident of Khana Patesari Town/Village Kharna, Anchal-Thaicurganj, District Kishanganj, Bihar is present in Court.

His sister is also present in Court. Lilmuni, present in Court identified the Petitioner as her father and states that she wishes to return to her father.

11. On his part, the Petitioner has produced his election identity card which shows his address to be Khana Patesari Town/Village Kharna, Anchal-Thaicurganj, District Kishanganj, Bihar. A photocopy thereof has been retained in Court file.

12. With Lilmuni, who is clearly above 18 years of age, expressing her desire to return to her father and with him to their village at Bihar, the Court finds no difficulty in acceding to the request of the Petitioner.

13. The Petitioner assures the Court that as and when the presence of Lilmuni is required in the criminal case arising out of aforementioned FIR, she will fully cooperate with the police and shall remain present.

14. In that view of the matter, the Court directs that Lilmuni shall stand released straightway from Global Family Home at Sangam Vihar, New Delhi. She is free to proceed with the Petitioner from the Court itself. This is subject to the Petitioner's undertaking about Lilmuni cooperating with the police in the criminal case arising out of the aforementioned FIR. In case of any change of their address, the Petitioner will promptly inform the SHO of PS Safdarjung Enclave.

15. The petition is disposed of in the above terms. A copy of this order be sent to the CWC-VIII. The SHO concerned will also inform the CWC-VIII.

The proceedings before the CWC-VIII as far as Lilmuni is concerned shall stand closed.

16. Copy of this order be given *dasti* under the signatures of the Court Master.

S. MURALIDHAR, J.

I.S. MEHTA, J.

APRIL 16, 2018
'dc'