

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.461 of 2019

Arising Out of PS. Case No.-158 Year-2018 Thana- UCHKAGAON District- Gopalganj

Nitish Kumar @ Nitesh Kumar S/o Amarjit Yadav village-Nawada Parsauni,
P.S-Uchkagaon,

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Director General Of Police, Govt. Of Bihar, Patna.
2. The District Magistrate, Gopalganj. Gopalganj.
3. The Superintendent of Police, Gopalganj. Gopalganj.
4. The Dy.S.P. Hathuwa, District-Gopalganj. Gopalganj.
5. The Officer-in-Charge, Uchkagaon, District-Gopalganj. Gopalganj.
6. Ranglal Yadav S/o Late Moti Lal Yadav village-Nawada Parsauni, P.S-Uchkagaon,

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Prakash Chandra, Advocate Mr. Bijay Prakash Singh, Advocate
For the Respondent/s	:	Ms. Prachi Pallavi, A.C. to A.G.

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-03-2019

Heard learned counsel for the petitioner.

This Habeas Corpus petition has been filed by a person claiming himself to be lawfully wedded to Prabhawati Kumari. It appears that a case was registered against the petitioner, being Uchkagaon P.S. Case No. 158 of 2018, in



which the victim Prabhawati Kumari was produced before the Magistrate. She deposed under Section 164 Cr.P.C. that she was aged about 21 years, but the deposition form indicates the age of the victim as 16 years. The victim has indicated that she, on her own volition, had accompanied the petitioner and had gone to Bombay where she married.

When she was produced before the learned District and Sessions Judge, Gopalganj, an order was passed on 13th of August, 2018 to send her to the Protection Home as her brother and mother did not want to take her back. Learned counsel contends that the Court below erroneously assumed that the victim was a minor and, consequently, her detention is unlawful.

Having considered the submissions raised, the Court below has passed an order on 13th of August, 2018. In our opinion, it would be appropriate that the same is challenged before the appropriate forum in accordance with the provisions of the Criminal Procedure Code. As a judicial order has intervened, it would not be appropriate for this Court to entertain this Habeas Corpus petition, more so when the order was passed way back on 13th of August, 2018. We are, therefore, not inclined to entertain this Habeas Corpus petition at this stage without prejudice to the rights of the aggrieved person to file a



revision application or seek such remedy as may be judicially
available against the order dated 13.08.2018.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/Uma/-

AFR/NAFR	NAFR
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