

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 78250 of 2019

Arising Out of PS. Case No.-91 Year-2019 Thana- SIKANDRA District- Jamui

- =====
1. Raj Kumar Goswami (Male), aged about 25 years, son of Manoj Goswami, Resident of Village Wali, P.S. Sikandra, District Jamui.
 2. Parshuram Goswami (male), aged about 45 years, son of Late Binda Goswami, Resident of Village Wali, P.S. Sikandra, District Jamui.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Lalan Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 03-09-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Rajesh Kumar Sinha, learned counsel for the petitioners and Mr. Lalan Kumar, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The matter was heard at length on 1st September, 2020, when the Court noticed grave discrepancies in the pleadings/application, inasmuch as, the deponent of the main application, Chhote Lal Kumar, has stated that he was aged about 18 years and had described himself as father-in-law of petitioner no. 2.



4. Perusal of the main application discloses that the deponent is aged about 18 years and has described himself as the father-in-law of petitioner no. 2, who is said to be aged about 45 years. Thus, an 18 years old person being the father-in-law of a 45 years old person is absurd and patently false. Further, in support of his identity, Chhote Lal Kumar has annexed copy of his Aadhar Card bearing No. 493042524029 in which his date of birth has been shown as 01.01.2003. Thus, on the date of affirming the affidavit i.e., 24.09.2019, Chhote Lal Kumar was a minor, aged only 16 years 9 months. Moreover, the Court noticed that in the main application, full younger brother of petitioner no. 1 has been referred to as '**one Hiral Goswami**' at paragraphs no. 7 and 8, which, in so many words creates a misleading impression that the petitioners have absolutely no connection with Hira Goswami. It was incumbent upon the petitioners to disclose their relationship with Hira Goswami. Further, in the supplementary affidavit filed on behalf of the petitioners, which has been affirmed by the father of petitioner no. 1, for the first time, it was disclosed that Hira Goswami was his younger son and brother of petitioner no. 1. However, the relationship of petitioner no. 2 has not been disclosed, either in the main application or supplementary



affidavit. Pursuant to the observations of the Court, second supplementary affidavit has been filed on behalf of the petitioners, on 2nd September, 2020.

5. In the aforesaid background, the Court deemed it appropriate to take strict judicial note of the same and pass appropriate orders.

6. At this juncture, Mr. Rajesh Kumar Sinha, learned counsel for the petitioners tendered unqualified apology and drew the attention of the Court to paragraphs no. 3 to 10 of the second supplementary affidavit. The same read as under:

“3. That before going into the facts of this case this deponent as well as counsel for petitioners tender their unqualified apology before this Hon’ble court for inconvenience to this Hon’ble court

4. That it is most humbly submitted on behalf of counsel for petitioners that in future he will not repeat such type of mistake.

5. That it is further most humbly submitted that the relation of the deponent in para-1 of affidavit in main petition, by mistake has been left the word “cousin” prior to word father-in-law which is typographic mistake.

6. That it is further most humbly submitted that the deponent of main petition is the younger brother of father-in-law of petitioner no. 1, so he is cousin father-in-law of petitioner No. 1 but the word



cousin has been left due to typographic mistake which is not deliberate.

7. That it is further most humbly submitted that age of deponent was more than 18 years at the time of affidavit which would be evident from his CERTIFICATE of matric.

8. That it is further most humbly submitted that the date of birth of deponent of main petition has been wrongly mentioned as 1.01.2003 in the ADHAR CARD but the real date of birth of deponent namely Chhotelal Kumar is 14.02.2001 which would be evident from his certificate of Matric.

9. That it is further most humbly submitted that this fact could not be disclosed in main petition due to mistake which is not deliberate.

10. That once again this deponent as well as counsel for the petitioner tender their unqualified and unconditional apology before this Hon'ble court."

7. Learned counsel for the petitioners submitted that he has been informed by the deponent of the supplementary and second supplementary affidavits, who is the father of petitioner no. 1, that Chhote Lal Kumar, shall take steps within two weeks from today to get the wrong date of birth recorded in the Aadhar Card, i.e., 01.01.2003, corrected in terms of the correct date of birth recorded in the matriculation certificate, i.e., 14.02.2001.

8. Having regard to the aforesaid and accepting the



apology, the Court refrains from passing any strict order and has proceeded to hear the main matter on merits.

9. The petitioners apprehend arrest in connection with Sikandra PS Case No. 91 of 2019 dated 18.04.2019, instituted under Sections 363/366A/34 of the Indian Penal Code and 4 of the Protection of Children from Sexual Offences Act, 2012.

10. The petitioners, along with wife of petitioner no. 1, are alleged to have kidnapped the minor daughter of the informant.

11. Learned counsel for the petitioners submitted that Heera Goswami, who is the younger brother of petitioner no. 1 and cousin of petitioner no. 2, has married the daughter of the informant as they were in love and the said marriage was voluntary with full consent of the girl. Learned counsel submitted that Heera Goswami is working in Bangalore and self-sufficient and they have no role in the marriage and have been made accused only because they are related to Heera Goswami. It was submitted that the girl, in the statement recorded before the Court under Section 164 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code'), has categorically stated that her father wanted to get her married to a 40 years old person due to which she had run away with



Heera Goswami and had married him in *mandir* and that her parents used to regularly beat her up. Learned counsel further submitted that even the Court, on its own has opined the age of the girl to be 19 years and the girl has also stated her age to be 20 years. It was submitted that she has categorically stated that she was not abducted and on her own free will had gone with Heera Goswami and that she wanted to go with her husband because if she goes with her parents, they would kill her. Learned counsel submitted that he has filed supplementary affidavit on behalf of the petitioners, which has been affirmed by the father of the petitioner no. 1, in which a categorical stand has been taken that they are ready to keep the girl in the matrimonial home and have no objection to accept the girl as wife of Heera Goswami and allow her to live with him as husband and wife in their house. It was submitted that though the girl had desired to go and live with her husband but was sent to the Remand Home and according to their information, after a few months she was released but has been sent to her parents' home due to which her husband i.e., the younger brother of the petitioner no.1, is taking steps for moving the Court.

12. Learned APP, from the case diary, submitted that witnesses have stated with regard to the minor girl of the



informant being kidnapped. However, he could not controvert the fact that the girl herself has categorically stated before the Court that she had herself gone with the younger brother of the petitioner no. 1 and had married him and wanted to live with him and that she was not kidnapped.

13. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge 1st, Jamui, in Sikandra PS Case No. 91 of 2019, subject to the conditions laid down in Section 438(2) of the Code with further condition that one of the bailors shall be a close relative of the petitioners.

14. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

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