

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1749 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Patna

KARU MANJHI S/o Late Ramchandra Manjhi Resident of Near Awadh Nursing Home, Ambedkar Colony, East Lohanipur, P.S.- Kadamkuan, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Home, Old Secretariat, Patna Bihar
 2. Home Secretary, Old Secretariat, Patna
 3. Sr. Superintendent of Police, Patna
 4. City S.P. (Central), Gandhi Maidan, Patna
 5. Sri Nishikant Nishi, Station House Officer, Kadamkuan P.S., Rajendranagar Stadium, Patna Bihar
 6. Sri Santosh Kumar S/o Sri Mahendra Ram
 7. Sri Mahendra Ram son of not known to the petitioner.
 8. Sri Chandan Ram S/o Sri Mahendra Ram
 9. Wife of Sri Mahendra Ram, name not known to the petitioner
- Respondent NO. 6 to 9 are the residents of Arya Kumar Road, Machhua Toli, Ambedkar Bhawan, P.S.- Kadamkuan, District- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Gouranga Chatterjee

For the Respondent/s : Mr.Lalit Kishore(Ld. Ag)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

6 06-02-2020 Petitioner has prayed for the following relief:

“(i) Directing the respondents to produce Sima Kumari, aged about 12 years, daughter of Karu Manjhi, who has been forcibly taken to the house of respondent Nos. 6 to 9, and being detained there and she is being married off with respondent no. 6



illegally.

(ii) For grant of adequate compensation to the petitioner for his mental harassment and monetary loss.

(iii) For any other relief(s) to which the petitioner is found entitled to.”

It is the petitioner’s contention that his daughter (prosecutrix), aged about 12 years, was forcibly taken away by the respondent Nos. 6 to 9 and has been under their illegal detention. As such, the corpus of the prosecutrix be directed to be produced before this Court.

Notices in the petition were issued to the private respondent nos. 5 to 9. S.H.O. of the concerned Police Station i.e. Kadam Kuan Police Station, also impleaded as a party respondent No. 5 by name, has entered appearance.

As per office report, service upon private respondent Nos. 6 to 9 stands effected on respondent no. 6. However, none have chosen to enter appearance and none is present on their behalf.

Be that as it may, from the affidavit filed by the S.H.O. (Respondent No. 5), it is evident that prosecutrix was produced before the concerned Magistrate on 21.12.2019 when her statement under Section 164 Cr.P.C., was recorded. In the said statement, even though she has disclosed her age to be of



19 years, but the concerned Magistrate, upon personal satisfaction, recorded her age to be of 18 years.

Noticeably, in the said statement, prosecutrix herself has disclosed that she has voluntarily solemnised her marriage with one Santosh (Respondent No. 6) in a temple and subsequently appeared before the Panchayat, when again marriage was solemnised. Thereafter, she is living with Santosh Kumar as his wife, of her own volition.

In the statement, there is no inference of whatever nature, that prosecutrix is under any pressure, coercion or threat. The said statement is voluntarily in nature inasmuch as she has stated before the Magistrate that on her own accord, she desires to reside with Santosh Kumar.

Under these circumstances, it cannot be said that prosecutrix is being illegally detained by any person, much less the private respondents, including the S.H.O. or Santosh Kumar. Hence, the present petition only merits rejection.

Insofar as the actual age of the prosecutrix, as is so alleged by the petitioner, is concerned, we are afraid, in these proceedings, such fact cannot be adjudicated. There is a remedy provided under the law and provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, can be resorted to



by the petitioner, if he so requires or desires.

As such, for all the aforesaid reasons, the present
petition is dismissed.

(Sanjay Karol, CJ)

(Mohit Kumar Shah, J)

sujit/-

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