

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16278 of 2020

Arising Out of PS. Case No.-142 Year-2018 Thana- KARJA District- Muzaffarpur

BABLI KUMARI Daughter of Gopal Mishra and Wife of Jitendra Kumar Thakur @ Jitendra Kumar Sharma Resident of Village and P.O-Nepura, P.S-Kajra, District-Muzaffarpur, Pin Code-844120 (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prabhat Kumar Dipak

For the Opposite Party/s : Mr.Umesh Lal Verma

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 25-01-2021 Heard learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner has filed this petition for quashing the order dated 16.04.2019 passed in Karja P.S. Case No.142 of 2018 by which the petition of the petitioner for releasing her in favour of her husband or mother-in-law has been rejected.

Learned counsel for the petitioner submits that age of the victim was assessed to be 15 years on the date of occurrence i.e. 10.08.2018 and on that ground, the learned Special Judge, POCSO rejected the petition of the petitioner who was remanded to Remand Home. Learned counsel for the petitioner placed his reliance on the case of Sahebi Khatoon @ Sahebi v. State of Bihar & Ors. which was decided by a Division Bench



of this Court. It is further submitted that even as per the entry made in the matriculation certificate of the victim, the victim is about to attain the age of majority.

Having considered the submissions and on perusal of the judgment, I find that judgment is with regard to the assessment of the age of the victim by the Court as well as by the Medical Board. When the matriculation certificate with regard to the age of the victim is clear that on the date of occurrence, the victim was minor, there is no scope for presuming the victim to be major relying on the judgment of this Court decided in the case of Sahebi Khatoon @ Sahebi(supra). The matriculation certificate is exclusive evidence about the date of birth of the victim. Therefore, I find no illegality in the order. Accordingly, this petition is dismissed as devoid of any merit.

The petitioner, if so advised, may file petition for release on her attaining majority on the basis of entry made in the matriculation certificate with regard to the age of the victim.

(Prabhat Kumar Jha, J)

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