

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.880 of 2018**

Arising Out of PS. Case No.-322 Year-2017 Thana- SUPAUL District- Supaul

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Sangeeta Kumari, W/o Srawan Kumar & D/o Sri Bindeshwari Mandal, at
present resident of Village- Bairiya, P.S. and District- Supaul.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sarita Devi, W/o Bindeshwari Mandal, Resident of Kariho, Ward No. 8, P.S.
and District- Supaul.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Arun, Adv.
For the State	:	Mr.Akhileshwar Dayal, APP
For the O.P. No.2	:	Mr.Kuldeep Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 13-07-2022 Heard learned counsel for the petitioner, learned counsel
for the State and learned counsel for the opposite party no.2.

This revision application has been preferred challenging
the order dated 16.05.2018 passed by the learned Sessions Judge,
Supaul in Cr.Rev.No.41 of 2018 by which the learned Sessions
Judge has set aside the order dated 26.03.2018 passed by learned
C.J.M., Supaul and remanded the matter back to him for
reconsideration on the point of determination of the age of the
petitioner.

Learned counsel for the petitioner submits that the
petitioner is the alleged victim of Supaul P.S. Case No. 322 of
2017 which was instituted on 11.06.2017 on the basis of a written
information of opposite party no.2 for the offence under Sections



363/366(A)/34 of the Indian Penal Code against the husband and other in-laws of the petitioner.

Learned counsel for the petitioner submits that the petitioner had appeared before the learned Magistrate as back as on 14.03.2018 where she disclosed her age as 19 years 5 months. She made a statement that she has married to one Srawan Kumar in a temple at Bairiya. She wanted to go to her sasural. She was kept in the girls remand home. She was carrying a pregnancy of four months and wanted to live in her sasural. It is submitted that under these circumstances the learned C.J.M. passed the order dated 26.03.2018 directing that the victim girl be released and she should be set at free to live on her own volition. It is submitted that the said order of the learned C.J.M. was challenged in the revision before the learned Sessions Judge, Supaul and in the revision the learned Sessions Judge found that the learned C.J.M. had completely erred in determining the age of the victim. In the school certificate of the victim her year of birth was mentioned as that of 2002 and she was only 16 years of age.

Learned counsel submits that at this stage the victim who is petitioner before this Court is living as wife with her husband and has got three children out of their wedlock. It is submitted that in any case due to lapse of time the significance of the impugned order has been lost. Even as per the impugned order



the petitioner would now be about 20 years of age. She has moved this Court herself against the impugned order.

On the other hand, learned counsel for the opposite party no.2 submits that the learned C.J.M. had completely erred in passing the order dated 26.03.2018. He was not correct in determining the age of the petitioner on the basis of her statement under Section 164 Cr.P.C. The medical examination report of the medical board was also showing her age between 17-18 years. The learned C.J.M. has wrongly applied the ratio of the judgment of the Hon'ble Apex Court in the case of **Jaimala Vs. Home Secretary, Jammu and Kashmir** reported in (1982) 2 SCC 538.

Having argued on the merit, learned counsel for the opposite party no.2 submits that in any case now he has lost interest in the matter because his daughter has solemnized the marriage on her own and she is living in her sasural with her children.

Having heard learned counsel for the petitioner, learned counsel for the opposite party no.2 and learned APP for the State, this Court finds that this revision application has lost its significance in view of the statement made by learned counsel for the opposite party no.2 but nonetheless this Court would go to record that the learned Sessions Judge, Supaul is correct in setting aside the order dated 26.03.2018 passed by the learned C.J.M. It



appears that the learned C.J.M. did not look into the school certificate of the victim girl, he did not consider the medical board opinion and took a view by wrongly applying the judgment of the Hon'ble Supreme Court in the case of Jaimala (supra). The issue has been set at rest by the Hon'ble Full Bench of this Court in its judgment in the case of **Shikha Kumari Vs. The State of Bihar & Ors.** reported in **2020 (2) PLJR 15.**

This Court is thus not interfering with the revisional order but at the same time observe that in view of the stand of opposite party no.2 no further action is required to be taken in terms of the revisional order of the learned Sessions Judge, Supaul.

This application stands dismissed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

