

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34650 of 2021

Arising Out of PS. Case No.-236 Year-2020 Thana- GHOSI District- Jehanabad

Vikash Manjhi, S/o Dharendra Manjhi, Resident of Village-Gandhar, P.S.-
Ghosi, District- Jehanabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Tapeshwar Sharma, Advocate

For the Opposite Party/s : Mr.Ram Bilash Roy Raman, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 28-04-2022 The petitioner is seeking quashing of the order dated 28.08.2020 passed in Ghoshi P.S. Case No.236 of 2020, corresponding to G.R. No.1528 of 2020, by learned Chief Judicial Magistrate, Jehanabad, whereby and whereunder cognizance of the offence under Sections 363 and 366A of the Indian Penal Code has been taken against the petitioner.

The petitioner's counsel submits that the order of cognizance is bad in view of the statement of the victim recorded under Section 164 Cr.P.C., wherein she has stated about going on her own volition with the petitioner.

The learned APP appearing for the State has drawn the attention of this Court towards the deposition of the victim, wherein the court has assessed her age to be 15 years. It is submitted that being minor, there is no occasion for the



petitioner to submit that she has given her consent. From the allegations ingredients of the offence for which cognizance has been taken are made out.

Considering the rival submissions, no case is made out for interference under Section 482 Cr.P.C., as the ingredients of the offence are made out from *prima facie* reading of the F.I.R.

The petitioner, however, would have liberty to raise the issue of the alleged victim's consent claiming that she was legally competent to give her consent before the trial court at the appropriate stage, in accordance with law.

The application is dismissed.

(Madhuresh Prasad, J)

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