

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.709 of 2022

Arising Out of PS. Case No.-49 Year-2022 Thana- ANDHRAMATH District- Madhubani

Sarswati Kumari D/o Jaikant Jha @ Dev Kant Jha, W/o Sakal Deo Kumar
Kamat R/o village- Mahadeo Math, P.S.- Andhara Matha, District-
Madhubani

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Govt. of Bihar, Patna.
2. The Superintendent of Police Madhubani Bihar.
3. The Officer in Charge of Andhara Matha, P.S.- Lokhi, District- Madhubani Bihar.
4. Jai Kant Jha S/o Late Shiv Narayan Jha R/o village- Mahadeo Math, P.S.- Andhramath, District- Madhubani.

... .. Respondents

Appearance :

For the Petitioner : Mr.Bindeswari Singh, Advocate
For the Respondents : Mr.Iqbal Asif Niazi, AC to GP-5

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 01-09-2022 Heard learned counsel for the petitioner and Mr. Iqbal
Asif Niazi, learned AC to GP-5 for the State.

This writ application has been filed seeking quashing
of the first information report being Andhara Math Police
Station Case No. 49 of 2022 dated 10.04.2022 under Section
363/366(A)/34 of the Indian Penal Code.

The F.I.R. has been lodged by respondent no. 4 who is
the father of the petitioner. According to the F.I.R. his daughter
had gone on an evening walk on 30.03.2022 but she did not
return and had been missing. The informant claimed that he has
come to know that the named accused persons had abducted his



daughter. In the F.I.R. itself, he says that her daughter is aged about 18 years.

Learned counsel for the petitioner submits that the date of birth of the petitioner is 01.01.2004, therefore on 30.03.2022 she was more than 18 years of age. She had been in love with one Sakaldeo Kumar Kamat and on her own volition solemnized an inter-caste marriage in Arya Samaj Mandir at Delhi on 31.03.2022 and thereafter she is living with her husband peacefully. In paragraph '6' of the writ application she has stated that after ten days of her marriage respondent no. 4 has lodged a false F.I.R. of her abduction. In this connection, she has given representation to the Superintendent of Police, Madhubani and the Officer-in-Charge of Andhara Math Police Station, copies of which are enclosed as Annexure '3' to the writ application. She has questioned the case on the ground that on the one hand the State is encouraging inter-caste marriage and is providing an assistance of Rs. One Lakh but at the same time a false F.I.R. is being done.

This Court had issued notice to respondent no. 4. He has received the registered notice personally but has not entered appearance.

A counter affidavit has been filed on behalf of



respondent no. 5. The Dy.S.P. (Headquarter), Madhubani has sworn this affidavit. It is stated in paragraph '7' that the case has been found true under Section 363 and 366 of the Indian Penal Code and further decision would be taken after the recovery of the victim girl. It is also stated that after recovery she will be examined by the doctor and will be produced before the court for examination under Section 164 Cr.P.C.

Having heard learned counsel for the petitioner and learned counsel for the State as also after perusal of the undisputed materials on the record, this Court finds that the investigating agency is not questioning the age of the petitioner. Her father has also mentioned in the F.I.R. her age being 18 years approximately. The date of birth mentioned in the Aadhar Card, copy of which is enclosed with the writ petition and other materials on the record are conclusively indicating that the petitioner is major.

Under these circumstances, her statement that she has married on her own volition and ten days thereafter the present F.I.R. has been lodged is fit to be accepted. This Court finds that investigating agency, has in its counter affidavit not done anything more than just pointing out the procedure which may be followed after the petitioner is either recovered or comes



before the investigating agency on her own. This Court understands that in the facts of the present case such procedures would in itself be a punishment.

To this Court, therefore, there is no hesitation in recording that this First Information Report is required to be quashed in the ends of justice. The First Information Report is quashed, accordingly.

This Writ Application is allowed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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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'.

