

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1039 of 2022

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

Anand Kumar @ Golu, son of Lalan Kumar Raut, Resident of Batraha, Ward No.- 27, P.S. Saharsha, District- Saharsha, Presently Residing At-Quarter No.549, B Type, Sector-2, Dhurwa, P.S.- Dhurwa, District- Ranchi, Jharkhand.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary (Home), Government of Bihar.
2. The Chairman of Child Welfare Committee, Saharsa, Bihar.
3. The Chairman of Girls Child Welfare Committee, Kishanganj, Bihar.
4. The Superintendent/Officer-in-Charge of Girl's Child Welfare Home, Saharsa, Bihar.
5. The Superintendent, Balika Sudhar Girih, Kishanganj, Bihar.
6. The District Magistrate, Saharsa.
7. The District Magistrate, Kishanganj.
8. The Superintendent of Police, Saharsa.
9. The Superintendent of Police, Kishanganj.
10. The Officer- In- Charge, Police Station- Saharsa Sadar, Saharsa.
11. The Officer-in-Charge, Police Station- Kishanganj, District- Kishanganj.
12. Moni Kumari @ Lata Kumari, W/o Shri Anand Kumar @ Golu, Resident of Batraha, Ward No.-27, P.S.- Saharsa, District- Saharsa, Presently, residing at Balika Sudhar Grih, District- Kishanganj.
13. The Superintendent of Police, Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Parul Prasad, Advocate Mr. Ratnesh Kumar, Advocate, Mr. Kautilya Kumar Prasad, Advocate Mr. Vikas Mehta, Advocate
For the State	:	Mr. Manish Dhari Singh, AC to AG.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

4 20-10-2022 Heard Ms. Parul Prasad, learned counsel along with

Mr. Ratnesh Kumar, learned counsel for the petitioner and Mr.



Manish Dhari, learned AC to learned Advocate General, for the State.

2. Pursuant to the last order, the respondent no. 12 is present in Court having been brought by the respondent no. 5. The father and elder sister of respondent no.12 are also present.

3. Having interacted with the parties, who are present and also having requested the learned Registrar, Ms. Anamika T. to interact with them, the Court finds that there are serious issues which, as of now, could not be resolved by the parties.

4. The respondent no. 12 on the basis of various documents, copies of which are on record, claims to be a major whereas, on the other hand, the father of respondent no. 12 and her sister claim that she is a minor and in support of which they also claim to have certain documents.

5. The background of the case is that the petitioner, along with his family members, is alleged to have kidnapped the respondent no. 12. However, after investigation based on certain documents, the Police submitted Final Form before the Court concerned and the same was accepted. Thus, the criminal case against the petitioner and his family members stands closed. However, the Court has been informed that the father of the respondent no. 12 has filed a complaint case, which is pending.



Moreover, when the father of the respondent no. 12 moved before the Court, which had conducted the criminal case, pointing out irregularities in the documents and also giving counter proof with regard to the minority of the respondent no. 12, the said Court had only observed that it had become *functus officio* and that the party should move before the Child Welfare Committee, Saharsa, which would decide the issue. Thereafter, the father of the respondent no. 12 claims that the C.W.C. has held that she is a minor having accepted the proof produced by him.

6. The respondent no. 12 is presently lodged in the Balika Sudhar Grih, Kishanganj in terms of the order of the Child Welfare Committee, Saharsa.

7. Having considered the matter, the Court finds that in the face of serious contested factual aspects, it would not be proper to take a final view in the present case with regard to whether the respondent no. 12 should be released in the custody of the petitioner who claims to be her husband. Thus, once the matter is before the Child Welfare Committee, Saharsa, it would be open to the parties to take the said proceeding to its logical conclusion and also to move further in accordance with law, if they are aggrieved by any order of the Child Welfare



Committee, Saharsa.

8. The factual aspects having been brought before the Court, the Court would direct the Superintendent of Police, Saharsa (respondent no. 8) and the Superintendent of Police, Khagaria, who is directed to be added as respondent no. 13 in the present case to set up a team of competent and upright officers to verify each and every document which may be produced relating to their district by either side. The authenticity of the document as well as the contents of the documents shall also be verified from the institutions from where they are said to have been issued and any other source which may be relevant. The concerned Superintendent of Police then at his level would prepare the report. Such report would be submitted by the two Superintendents before the Child Welfare Committee, Saharsa, based on which it may take appropriate decision in accordance with law. For ensuring that no party misleads or there is suppression of truth, the Court directs the Superintendents of Police also to submit their copies of the report to the District and Sessions Judge, Saharsa, who is head of the District Monitoring Committee relating to institutions under the Juvenile Justice (Care and Protection of Children) Act, 2015. Further, the petitioner side shall be required to produce proof of marriage



between the petitioner and the respondent no. 12 which upon its production shall also be got verified by the Superintendent of Police, Saharsa through his counterpart of the District in which it is said to have been performed. In addition, he would also enquire and verify with regard to the identity and residence of the petitioner as also what vocation he carries and his family background and the same shall also be submitted, both to Child Welfare Committee, Saharsa as also to the District and Sessions Judge, Saharsa.

9. The respondent no. 5 is directed to take back the respondent no. 12 to the Balika Sudhar Grih, Kishanganj.

10. The writ petition stands disposed of with the aforesaid observations and directions.

(Ahsanuddin Amanullah, J)

(Purnendu Singh, J)

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