

HIGH COURT AT CALCUTTA
IN THE CIRCUIT BENCH AT JALPAIGURI
Criminal Revisional Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

C.R.R. 137 of 2021

Raju Saha & Anr.

Vs.

The State of West Bengal & Anr.

For the Petitioner	:	Mr. Sayan De, Mr. Kaustuv Shome.
For the State	:	Mr. Aditi Shankar Chakraborty, Mr. Arun Kumar Sarkar.
Heard on	:	11.04.2022
Judgement on	:	11.04.2022

Jay Sengupta, J. :

This is an application challenging an order dated July, 22, 2021 passed by the learned Additional Sessions Judge, Dinhata, Cooch Behar, being the Special Court in POCSO Case No.18 of 2021 arising out of Dinhata Police Station Case No.369 of 2021 dated July, 17, 2021 under Sections 366A, 370, 370A, 372, 373 read with Section 120B of the Penal Code and Sections 4, 6 and 17 of the Protection of Children from Sexual Offences (POCSO) Act and Sections 3, 4, 5, 6, 7 and 9 of the Immoral Traffic (Prevention) Act.

Learned Counsel appearing on behalf of the petitioners submits as follows. The petitioners are the parents of the victim girl. The victim girl was

recovered from a brothel where immoral activities were taking place involving minor girls. The petitioners being the parents of the victim girl made an application before the learned Special Court for release of the victim girl. By an order dated 22.07.2021, the said prayer was turned down. The learned Special Judge erred in taking into consideration only the statement of the victim girl purportedly recorded under Section 161 of the Code of Civil Procedure. The learned Special Judge did not consider the other materials while deciding the issue of release of the minor girl in favour of the parents.

Learned Counsel for the State produces the case diary and submits as follows. From the statement of the eleven years old minor girl, it is clear that it was her parents who had sent her to work at the place where prostitution was run. There she witnessed that minor girls were engaged in prostitution. She did not want to work there.

I have heard the submissions of the learned Counsels appearing on behalf of the petitioners and the State and have perused the revision petition and the case diary.

The prosecution case is that the minor victims recovered had been forced into prostitution.

The learned Special Judge also recorded that the medical report of the minor victim girl evinced that she was sexually abused. He recorded his concern that the victim's release to her mother may lead to her being thrown into flesh trade again.

It appears that the victim girl is only about eleven years old. Yet, as per her statement, her parents were caring enough to send her to work at a place

where minor girls were being sexually and commercially exploited. It also appears from her statement made before the police that she was scared and did not want to work there.

In fact, she is a vital witness in the present case.

Therefore, sending her back to the same parents at this stage would not be proper for her security and well-being. As such, I do not find any illegality in the impugned order passed by the learned special Court.

Accordingly, the revisional application is dismissed.

However, there shall be no order as to costs.

The concerned authorities of the State and the Superintendent, Sahid Bandana Mahila Abas, Cooch Behar shall take appropriate measures to ensure safety, security, education and well being of the minor victim girl.

A copy of this order shall be communicated by the Registry forthwith to the learned Special Court as also to the Superintendent, Sahid Bandana Mahila Abas, Cooch Behar.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)