

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26011 of 2016

Arising Out of PS. Case No.-130 Year-1996 Thana- HARSIDHI District- East Champaran

Vijay Sah @ Amrendra Kumar so of Subash Sah @ Subhash Sah, Resident of
Village- Gayghat, Police Station- Harsidhi, District- East Champaran.

... .. Petitioner/s

Versus

1. State of Bihar
2. Shiv Pujan Sah son of Ram Autar Sah, resident of Village- Gayghat Chowk,
Police Station- Harsidhi, District- East Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar
		Mr. Dhananjay Kumar
For the Opposite Party/s	:	Mr.M.K. Gautam, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 03-10-2023 The present petition, under Section 482 Cr.P.C., has been preferred by the petitioner impugning the order dated 21.09.2015, passed by Ld. 6th Additional Sessions Judge, East Champaran, Motihari in Sessions Trial No. 400 of 2011, whereby the claim of the petitioner to be juvenile has been rejected on the ground that the matriculation certificate filed by the petitioner is in the name of Amrendra Kumar, Son of Subhash Prasad, whereas the name of accused petitioner, as per FIR, is Vijay Sah, son of Subhash Sah.

2. Ld. counsel for the petitioner submits that Ld. Court below has not properly appreciated the facts and circumstances of the case as Amrendra Kumar Son of Subhash



Prasad and Vijay Sah, son of Subhash Sah is one and the same person. But Ld. Trial Court has erroneously reached to the conclusion that both are different person. Hence, he has rejected the application of the petitioner for declaring him as juvenile. He further submits that at most Ld. Trial Court should have called for a report from the police with regard to his identity, but the same has not been done.

3. Ld. APP for the State, however, supports the impugned order saying that there is no illegality and infirmity in the impugned order.

4. I considered the submissions advanced by both the parties and perused the materials on record. I find that the claim of the petitioner to be juvenile is an important right of the petitioner and such right should not be brushed aside in such a casual manner. Ld. Court below should have called for a report from the police regarding his identity because the material on record is not sufficient to decide the claim of the petitioner. After such report, the Court should have considered the petition examining the police report along with the admit card issued by Bihar Secondary School Examination Board as well as matriculation certificate. But, the impugned order has been passed without getting all the relevant information.



5. Hence the impugned order is not sustainable in the eye of law. As such, impugned order dated 21.09.2015, passed by learned 6th Additional Sessions Judge, Motihari in Sessions Trial No. 400 of 2011 is set aside. Ld. Court below is directed to call for a report from the police regarding the claim of the petitioner and after the report, he should consider all the relevant documents on record and pass a fresh order. The Court below is directed to call for a police report within one week of receipt of this order and thereafter the police will be required to submit its report within ten days and thereafter the Court below is required to pass its own order within next ten days without fail seeing the interest of the petitioner, who is claiming to be juvenile, having serious repercussion on the trial. The police must examine the parents of the petitioner and public representatives like Sarpanch and Mukhiya of the locality, beside examining documentary proofs like Ration card and school certificates.

6. The present application is accordingly allowed with the aforesaid direction.

(Jitendra Kumar, J)

Amrendra/-

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