

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.538 of 2024

Arising Out of PS. Case No.-140 Year-2018 Thana- MAGADH MEDICAL COLLEGE
District- Gaya

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Saraswati Devi W/o Late Anil Kumar R/o 135, Bageshwari Road, Chotki
Nawada, Loco Colony, P.s. - Delha, Distt.- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna Bihar
2. The I.G. of Police, Magadh Range, Gaya Bihar
3. The S.S.P. Gaya Bihar
4. The Officer In-Charge, Magadh Medical PS. - Gaya Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar
For the Respondent/s : Mr.G.A. 11

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 09-04-2024 Heard learned advocate for the petitioner and learned
A.P.P. for the State.

2. It is submitted by the learned advocate for the petitioner that the petitioner has challenged legality, propriety and validity of the order dated 22.12.2023 whereby and whereunder his petition under Section 311 of the Cr.P.C. was rejected. Secondly, it is submitted by the learned advocate for the petitioner that though charge was framed against the petitioner under Section 13 of the POCSO Act, read with Sections 147, 149, 228A and 353 of the Indian Penal Code and Section 74 of the Juvenile Justice (Care and Protection of Child)



Act, 2015, no case has been made out under the said provisions and instant criminal case may be quashed.

3. Having heard the learned advocate for the petitioner and on perusal of the impugned order, this Court is of the view that an order passed under Section 311 of the Cr.P.C. is reversible under the provision of Section 397 read with Section 411 of the Cr.P.C.. Therefore, petitioner is at liberty to file revisional application assailing the said order. A judicial order cannot be quashed and set aside anywhere extra ordinary jurisdiction under Article 226 of the Constitution of India.

4. Moreover, when charge has been framed in connection with the said criminal case an evidence of the witnesses have been recorded, the criminal case cannot be quashed after commencement of Trial the accused may either be acquitted or convicted. The writ petition is also not maintainable on its count.

5. I have already recorded that the petitioner is given liberty to file revisional application assailing the order dated 22.12.2023 subject to the law of limitation.

6. The instant writ petition is accordingly, dismissed as withdrawn.

7. The petitioner is at liberty to collect the impugned



order and other materials on record being annexures to the writ
petition by supplying the photostat copy of the said annexures
from the instant record.

(Bibek Chaudhuri, J)

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