

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 197 of 2023

Arising Out of PS. Case No.-67 Year-2014 Thana- NAWADA MUFFASIL District- Nawada

Archana Kumari W/o Ranjan Kumar, D/o Kamta Singh R/o Village- Pakariya, P.S.- Mufasil, Distt- Nawada, at present, Village- Dariyapur, P.S.- Rajauli, Distt- Nawada, presently residing with father at West Santinagar, Post- Anandu Nagar, P.S.- Nischinda (Bali), Distt- Howrah, PIN- 711227.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ranjan Kumar S/o Ram Balak Singh R/o Village- Pakariya, P.S.- Muffasil, Distt- Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	M/s Sidhendra Narayan Singh, Kr Lalit, Advocates
For the S t a t e	:	Mr Ram Sumiran Rai, APP
For Opposite Party No 2 :		Mr Deepak Kr, Advocate

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 28-11-2024

Petitioner is the informant in Mufassil PS Case No 67 of 2014 which has been registered for the alleged offence punishable under Sections 498A, 341, 323, 504, 379/34 of the IPC and Sections 3/4 of the Dowry Prohibition Act.

2 The petitioner has preferred this petition being aggrieved with the order dated 30.01.2023 passed by the Principal Magistrate, Juvenile Justice Board (for brevity, **JJB**), Nawada in Nawada Mufassil PS Case No 67 of 2014 whereby and where under the learned JJB declared Opposite Party No 2 juvenile.



3 Brief facts of thje case are that the petitioner was married with Opposite Party No 2 on 09.06.2014. Thereafter, she was ousted from the matrimonial house snatching her ornaments and demanding Rs 5 lacs as a dowry.

4 On the basis of written complaint made by the petitioner herein, the said Nawada Mufassil PS Case No 67 of 2014 was registered.

5 During pendency of the said proceeding, on 23.06.2016, Opposite Party No 2 took the plea of juvenility before the Court of learned SDJM, Nawada who split up the records and sent it to the JJB, Nawada for enquiry on the point of juvenility of Opposite Party No 2. The JJB, Nawada, on the basis of provisional certificate produced by Opposite Party No 2, issued by the Bihar School Examination Board, Patna declared Opposite Party No 2 as juvenile on the date of occurrence, i e, 09.06.2014 which has been assailed by the petitioner before the learned Additional Sessions Judge I -cum- Special Judge (Children Court), Nawada. The learned Special Judge in Criminal Appeal No 62 of 2016 vide order dated 12.02.2018, affirmed the order of the JJB, Nawada. Both the orders, as mentioned above, were assailed by the petitioner before this Court in Criminal Revision No 611 of 2018. A coordinate Bench of this Court, vide order dated



05.03.2021, quashed both the orders passed by the JJB as well as learned Special Judge (Children Court) and remanded the matter back to the JJB, Nawada with a direction to conduct fresh enquiry after hearing all the parties strictly in terms with Section 94 (2) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for brevity, *the Act*). Thereafter, the learned JJB passed the impugned order which has again been challenged by the petitioner herein.

6 It is submitted by the learned counsel for the petitioner that the learned JJB, even after the clear cut direction given by this Court in Criminal Revision No 611 of 2018, passed the impugned order in a very casual manner and without following the directions given by this Court. He submits that at the time of enquiry, the learned JJB has not taken any evidence of the petitioner nor information was sent to the petitioner regarding conduct of enquiry. It is further submitted by the learned counsel that the learned JJB declared Opposite Party No 2 juvenile on the basis of the certificate issued by the Bihar School Examination Board wherein the date of birth of the petitioner is mentioned as 02.02.1999. According to the counsel, it is found by him that there is nothing available on record with the learned JJB which shows that who produced the certificate before the learned JJB. He



further submits that before taking any decision on the basis of said document, the learned JJB also did not consider the other documents which have already been placed on record. Even the copy of the said certificate has not been provided to the petitioner nor any opportunity of rebuttal of the said evidence has been given by the learned JJB. Therefore, the learned JJB, even after clear cut direction of this Court, did not conduct the enquiry properly and passed the impugned order mechanically and in a casual manner.

7 Learned counsel for Opposite Party No 2 opposes the argument advanced by the learned counsel for the petitioner. However, he fairly accepted that on perusal of the record of the learned JJB, he also does not find any thing which shows that who produced the certificate before the learned JJB. He also accepted that in the entire order sheets, this fact has not been mentioned. However, he submits that the document, which has been relied by the learned JJB, is a genuine document which can be verified from the officers of the Bihar School Examination Board, Patna who issued the same.

8 I have heard learned counsel appearing for both the parties. Perused the impugned order as well as entire record of the learned JJB.



9 Undisputedly, in the first round of litigation, the learned JJB has assessed the age of the petitioner on the basis of provisional certificate issued by the Bihar School Examination Board. Since, it was the provisional certificate, therefore, the matter was remitted back to the learned JJB to conduct fresh enquiry in terms of Section 94 (2) of the Act. Direction was also given to the learned JJB to conduct the fresh enquiry after hearing all the parties strictly in terms with Section 94 (2) of the Act. Perusal of the order sheet of the learned JJB shows that the order passed by this Court was received by the learned JJB on 15.03.2021. Thereafter, during the course of enquiry on 05.10.2021, one witness, namely, Brahamdeo Prasad has been examined who produced the photostat copy of the school admission register and according to his statement, the date of birth of Opposite Party No 2 is mentioned as 20.12.1997. However, the learned JJB, did not consider his statement and, on the basis of entry made in the Bihar School Examination Board's certificate, arrived at the conclusion that the date of birth of Opposite Party No 2 is 02.02.1999. The order sheets of the learned JJB also shows that after 05.10.2021, the learned JJB did not examine any other witness. On 24.02.2022, the argument of both the parties were partly heard and again on 09.03.2022 and subsequent dates,



the matter was posted for further enquiry with regard to the determination of the age of Opposite Party No 2. The matter was lastly posted on 30.01.2023 for conducting further enquiry regarding the age of Opposite Party No 2. Suddenly, without conducting any enquiry, on 30.01.2023, the impugned order has been passed which is based upon the certificate issued by the Bihar School Examination Board, Patna. From perusal of the entire order sheet of the Board, it transpires that there is nothing mentioned in any of the order sheet regarding the submission of the said certificate by any of the parties before the learned JJB. The order sheet further shows that the petitioner, who is appearing in the proceeding through her counsel, has also not been provided the copy of the said document nor given any opportunity of rebuttal of the said document. Therefore, the genuineness and correctness of the said document, which has been relied by the learned JJB, is still suspicious. The learned JJB, even after the clear cut direction issued by this Court, passed such impugned order in a very casual manner.

10 Thus, the impugned order passed by the learned JJB on 30.01.2023 is quashed.

11 The matter is again remitted back to the learned JJB to pass a fresh order strictly in accordance with the directions



given by this Court vide order dated 05.03.2021 in Cr Revision No 611 of 2018.

12 It is expected that the learned JJB will conclude the above enquiry as early as possible preferably within three months from today.

13 With the aforesaid observation, this revision petition is allowed.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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