

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.87792 of 2024

Arising Out of PS. Case No.-87 Year-2017 Thana- GAIGHAT District- Muzaffarpur

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1. Chandra Bhushan Kunwar @ Lal Singh S/O Vindeshwar Kunwar R/O Village- Dhobauli Sube, P.O and P.S- Gaighat, Distt.- Muzaffarpur.
 2. Parmanand Kunwar @ Pappu Singh S/O Sri Chandra Bhushan Kunwar R/O Village- Dhobauli Sube, P.O and P.S- Gaighat, Distt.- Muzaffarpur.
 3. Raja Singh S/O Late Ramadhar Kunwar R/O Village- Dhobauli Sube, P.O and P.S- Gaighat, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Amina Khatoon D/O Hakim Miya R/O Village- Dhobauli, P.S- Gaighat, Distt.- Muzaffarpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Madhusudan Kumar, Advocate

For the Opposite Party/s : Mr. Ajit Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 15-09-2025

Heard Mr. Madhusudan Kumar, learned counsel appearing on behalf of the petitioners and Mr. Ajit Kumar, learned A.P.P. for the State.

2. The petitioners have sought quashing of the order dated 08.10.2024 passed in Gaighat P.S. Case No. 87 of 2017 by the learned 6th Additional Sessions Judge-cum-Special Court POCSO Act (1), Muzaffarpur, by which he has been pleased to reject the discharge petition of the petitioners.

3. As per the allegation made in the FIR, petitioners along with other accused persons, with an intention to kill, had



assaulted the informant and her family members and had also ill treated her.

4. Learned counsel appearing on behalf of the petitioners submitted that all the petitioners have exercised their right to file application under Section 227 of the Code of Criminal Procedure for being discharge from all the allegations on the ground that they have been implicated in a false and fabricated case. Learned counsel further submitted that the learned 6th Additional Sessions Judge-cum-Special Court POCSO Act (1), Muzaffarpur, without discussing the age of the victim on the basis of the report of the Medical Board and the Matriculation Certificate issued by the Bihar School Examination Board, Patna, in which date of birth of the victim has been mentioned as 16.05.1998, has proceeded to take cognizance under Section 8 of the POCSO Act along with Sections 448, 341, 323, 427, 504 and 34 of the Indian Penal Code. In view of the fact that the victim was major on the date of alleged incidence, the order dated 08.10.2024 passed by the learned 6th Additional Sessions Judge-cum-Special Court POCSO Act (1), Muzaffarpur, rejecting the discharge application of the petitioners under Section 227 of the Code of Criminal Procedure, is fit to be set-aside and quashed.



5. Learned A.P.P. has vehemently opposed and submitted that there is no infirmity in the order dated 08.10.2024 passed by the learned 6th Additional Sessions Judge-cum-Special Court POCSO Act (1), Muzaffarpur, rejecting the discharge application of the petitioners under Section 227 of the Code of Criminal Procedure.

6. Heard the parties.

7. I have perused the order dated 08.10.2024. I find that the learned District Court has not given his finding in respect of the age of the victim on the basis of evidence produced and Matriculation Certificate issued by the Bihar School Examination Board, Patna and learned District Court has failed to exercise its jurisdiction.

8. In absence of the finding in respect of the age of the victim, the learned District Court is directed to examine the Matriculation Certificate issued by the Bihar School Examination Board, Patna and the age of the victim as has been claimed by the prosecution and give its finding.

9. The order dated 08.10.2024 passed by the learned 6th Additional Sessions Judge-cum-Special Court POCSO Act (1), Muzaffarpur is modified to the above extent.

10. Accordingly, the present quashing application



stands disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	17.09.2025
Transmission Date	N/A

