

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1050 of 2024

Arising Out of PS. Case No.-179 Year-2020 Thana- GAYA KOTWALI District- Gaya

Priyanka Rani @ Neha Gupta W/O Gaurav Kumar, D/O Shekhar Kumar R/O
Mohalla - A.N. Road, Murarpur, P.S. - Kotwali, Distt.- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. Naheed D/o Sirajuddin @ Gudu R/o Mohalla - Patna City, Noor Chauraha,
P.s. - Khajekala, Distt.- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar
For the Respondent/s : Mr. Nirmala Kumari

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 3 22-07-2025 It is submitted by the learned Advocate on behalf of the petitioner that initially the petitioner challenged an order passed by the trial court rejecting his application for discharge *vide* order dated 20th September 2024 passed in POCSO Case No. 29/2022. The petitioner approached in revision, challenging legality, validity and propriety of the said order of rejection of petition filed by the petitioner for discharge, thereafter, the trial court proceeded further and framed charge against the accused/petitioner under Sections 342/323/317/370/370(A)/374 of the IPC, secondly, under Section 75 and 79 of the Juvenile Justice Act along with Section 8/17 of the POCSO Act and Section 12 read with 17 of the POCSO Act.



2. The petitioner has filed an intervening application challenging the said order of framing of charge.

3. It is needless to say that the Hon'ble Supreme Court in Case of *Amar Nath & Ors. Vs. State of Haryana & Ors.* reported in (1977) 4 SCC 137, *Madhu Limaye Vs. State of Maharashtra* reported in (1977) 4 SCC 557 and subsequently, *Girish Kumar Suneja vs. CBI* reported in (2017) 14 SCC 809 described three kinds of orders which can be passed by the Court. They are (i) final order, (ii) intermediate order and (iii) interlocutory order.

4. The Hon'ble Apex Court in *Girish Kumar Suneja* (supra) was pleased to make distinction between interlocutory and intermediate order. It is held that an intermediate order is one which is interlocutory in nature, but when reverse, it has the effect of terminating the proceeding and thereby resulting in a final order.

5. In the instant case, if an application for discharging the accused is allowed by the trial court, it could have terminated the prosecution's case. Therefore, an order rejecting an application for discharge under Section 227 of the CrPC is an intermediate order and in the opinion of this Court, the said order is revisable. But when a charge is framed, the accused has



no other alternative but to establish that prosecution has failed to bring home the charge against him by way of cross examination of the witnesses on behalf of the prosecution and also by adducing defense witness, if any. Therefore, the order of framing charge in the considered opinion of this Court is not revisable.

6. At the same time, this Court is not unmindful to note that the petitioner has the liberty to challenge the prosecution's case under Section 482 of the CrPC.

7. It is submitted by the learned Advocate for the petitioner that he may be given opportunity to convert the instant revision as an application under Section 482 of the CrPC.

8. Accordingly, the permission is granted.

9. The petitioner is at liberty to convert the instant revision as an application under Section 482 of the CrPC.

(Bibek Chaudhuri, J)

Suraj Dubey/-

U		T	
---	--	---	--

