

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.489 of 2024

Arising Out of PS. Case No.-56 Year-2023 Thana- SIMRI BAKHTIYARPUR District-
Saharsa

Radha Devi W/o Vivek Roy @ Vivek Ray Resident Of Village Sakrauli, Ward
No 2 Panchayat Sardiha, PS Bakhtiyarpur District- Saharsa

... .. Petitioner/s

Versus]

1. The State of Bihar
2. Mithun Kumar Sah S/o Chunchun Sah R/o Village-Sakraouli Ward No.2,
Panchayat Sardiha, P.S.-SimriBakhtiyarpur, District-saharsa

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Diwakar Prasad Singh, Advocate
For the State	:	Mr.Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 06-02-2026

Heard learned counsel for the petitioner.

2. Despite service of notice, there is no representation on behalf of opposite party no. 2.

3. The instant criminal revision has been preferred against the order dated 23.01.2024 passed by learned Juvenile Justice Board, Saharsa in connection with Simri Bakhtiyarpur P.S. Case No. 56 of 2023 by which the opposite party no. 2 was declared juvenile on the basis of forged certificate.

4. Learned counsel for the petitioner submits that the opposite party no. 2 and other co-accused persons committed rape with the minor daughter of the petitioner after



taking her out forcibly in absence of the petitioner. Simri Bakhtiyarpur P.S. Case No. 56 of 2023 was registered initially under Sections 363, 366A, 506/34 of the Indian Penal Code and Sections 8 & 12 of the POCSO Act. Subsequently, Sections 376 IPC and 4 of POCSO Act were also added. Learned counsel further submits that the opposite party no. 2, who is one of the accused persons, claimed himself to be a juvenile and his age was assessed by the learned Juvenile Justice Board to be 15 years 01 month 12 days and vide order dated 23.01.2024 the opposite party no. 2 was declared juvenile. Learned counsel further submits that the age of the opposite party no. 2 was assessed on the basis of mark-sheet issued by the Bihar School Examination Board in which the date of birth of opposite party no. 2 was mentioned as 05.09.2007 but the said mark-sheet was forged. Learned counsel further submits that, however, subsequently the said document was removed from the record and another document from the school first attended showing date of birth of opposite party no. 2 has been annexed with the record in most illegal manner. Even in the document subsequently annexed, there is clear manipulation in the date of birth of opposite party no. 2 which is apparent on the face of record. There is no manipulation in the date of birth of any of



the children whose names have been mentioned in the said document except this opposite party no. 2. These facts go on show that the age of the opposite party no. 2 was assessed on the basis of completely forged document and he was declared juvenile without following the procedure under Section 9(2) read with Section 103(1) of Juvenile Justice (Care and Protection of Children) Act, 2015. Learned counsel further submits that the order of the learned trial court dated 23.01.2024 is based on a mark-sheet issued by the Bihar School Examination Board but no such document is on record and for this reason, the petitioner could not get the certified copy of the said document. Even when application has been filed under RTI, no document was furnished. Thus, learned counsel submits that the order declaring the opposite party no. 2 a juvenile be set aside and the learned trial court is directed to conduct proper enquiry in the matter.

5. Perused the records.

6. From perusal of Annexure-P/7, it is clearly manifest that manipulation has been made in the date of birth of opposite party no. 2 and the said document is stated to be a document issued by the school first attended. From perusal of the impugned order, I find that the said order has been passed on



the basis of some mark-sheet produced by the elder brother of opposite party no. 2 mentioning the age of opposite party no. 2 05.09.2007. Since the occurrence is stated to have taken place on 17.10.2022, the learned trial court on simple calculation declared opposite party no. 2 to be a juvenile. However, no report has been called for either from the institution issuing the mark-sheet or from any other authority and the document was not verified. Moreover, as submitted by learned counsel for the petitioner regarding the said document being not available on record of the learned Juvenile Justice Board, it is a very serious matter.

7. Though the opposite party no. 2 was given opportunity to put up his case before this Court, there is no representation on behalf of opposite party no. 2 despite service of notice and hence, this Court intends to move forward and pass appropriate orders even in absence of opposite party no. 2.

8. Finding sufficient merit in the submission of learned counsel for the petitioner regarding there being apparent manipulation in the date of birth in the document produced before the learned Juvenile Justice Board regarding claim of age of opposite party no. 2 and further considering the submission of the petitioner about there being no document on the record of



learned Juvenile Justice Board based on which the impugned order has been passed, I am of the view that the matter needs reconsideration by the learned Juvenile Justice Board. Further, it is apparent that no enquiry under Section 9(2) read with Section 103(1) of Juvenile Justice (Care and Protection of Children) Act, 2015 has been made by the learned Juvenile Justice Board and therefore, I think it fit and proper to set aside the order dated 23.01.2024 and remand the matter before the Juvenile Justice Board, Saharsa for fresh consideration.

9. Accordingly, the present criminal revision petition stands allowed.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
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