

(2009) 03 PAT CK 0109
In the Patna High Court
Case No : Cr.WJC No. 948 of 2007

Ganesh Rai

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 03-03-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164

Citation : (2009) 2 PLJR 939

Hon'ble Judges : Samarendra Pratap Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Samarendra Pratap Singh, J.—Heard the learned counsel for the parties. The petitioner has prayed for quashing the order dated 7.8.2007 passed in Motihari P.S. Case No. 119/07 whereby the Magistrate has rejected the prayer of the petitioner for quashing the assessment of the age made by the Medical Board on 23.7.2007 constituted under Chairmanship of Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur.

2. The petitioner lodged an F.I.R. being Motipur P.S. Case No. 119/07 dated 23.5.2007 stating therein that his minor daughter aged about 14 years has been abducted by O.Ps. No. 7 to 12. The statement of the girl was taken u/s 164 Cr.P.C. in which her age was assessed as 17 years by the Magistrate whereas the girl stated her age to be 19 years. A Medical Board constituted under the Chairmanship of Civil Surgeon-cum-Chief Medical Officer, Muzaffarpur assessed the age of the girl to be 18 to 19 years of 23.7.2007.

3. The case of the petitioner who is the father of the victim girl, Rinki Kumari, is that she is a minor aged about 14 years. In support of his contention certificate dated 15.2.2007 granted by the Rajkiya Sanskrit Middle School, Motipur, Muzaffarpur, has been filed which shows her date of birth as 5.5.1994.

4. Learned counsel for the petitioner submits that the Medical Board has

assessed the age of victim, Rinku Kumari, after coming in connivance with the accused persons. He further submits that the petitioner made statement before the Magistrate in respect of her age under coercion of the accused persons.

5. After hearing the learned counsel for the parties, this Court does not find any concrete material to hold that the Medical Board has assessed age of the girl after going in connivance with the accused persons and as such this contention is devoid of any merit.

6. It would be open to the petitioner to substantiate with the aid of the evidence in the criminal proceeding that the girl is a minor and not major. With the aforesaid liberty granted to the petitioner this application is dismissed.