
(2008) 02 PAT CK 0163

In the Patna High Court

Case No : Criminal Miscellaneous No. 46576 of 2007

Madan Mohan Tiwary @ Madan Kishore Tiwary

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 12-02-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34, 363, 366A

Citation : (2008) 3 PLJR 19

Hon'ble Judges : Anwar Ahmad, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Anwar Ahmad, J.

Order dated 31.1.2008

1. A Vakalatnama has been filed on behalf of the victim Madhuri Kumari @ Gudia. Let it be kept on the record. This is an application filed u/s 482 of the Code of Criminal Procedure for setting aside the order dated 13th September, 2007 passed in Sessions Trial No. 327 of 2007 arising out of Guthani P.S. Case No. 10 of 2007 for the offence under Sections 363 and 366A/34 of the Indian Penal Code by F.T.C.-I, Siwan by which he has ordered to release the victim, Madhuri Kumari @ Gudia, from the Nari Niketan, Gayghat, Patna, holding the victim as adult.

2. Learned counsel for the petitioner submits that the impugned order be set aside and the victim who is minor be released in favour of the petitioner, who happens the father of the victim. He submits that in spite of the impugned order the victim has not been released from the Nari Niketan, Gayghat, Patna.

3. Learned counsel for the victim who appeared through Vakalatnama opposed the prayer of the petitioner.

4. For just decision it appears necessary to see and hear the victim. So. the Superintendent of Nari Niketan, Gayghat, Patna is directed to produce the victim on 12.2.2008 in my chamber at 4 P.M.

5. As submitted by the learned counsel for the victim, let this order be communicated to the Superintendent of Nari Niketan Gayghat, Patna through fax at the cost of the victim.

Order dated 12.2.2008

6. As per the order dated 31st January, 2008 the alleged victim Madhuri Kumari @ Gudia was produced.

7. Learned counsel for the victim, learned counsel for the petitioner who happens the father of the victim and learned counsel for the State appeared.

8. The victim on query made a statement that she voluntarily went with Durgesh Mishra and solemnised marriage with him and she was also living with him in Punjab as wife and husband. She stated her age as 25 years. She further stated that she wanted to live with her husband. She stated that she studied in her village school and thereafter at Babu Intermediate College, Sohanpur.

9. Learned counsel for the petitioner Mr. Naresh Dixit submits that from the statement of the victim it is quite clear that school certificates Annexures-2 and 2/1 filed on behalf of the petitioner are true and as per the school certificate Annexure-2/1 her date of birth is 10th October, 1992 and hence she is minor.

10. Learned counsel for the victim submits that as per the medical report her age has been assessed as 18-19 years and she is major.

11. From physical appearance the alleged victim appears major.

12. Considering the submissions made on behalf of the parties, medical report, the age disclosed by the victim and her physical appearance I find that she is major and hence, the miscellaneous case is fit to be dismissed.

13. In the result, the miscellaneous case is dismissed at the admissions stage itself. As submitted, let this order be communicated to the court below through fax at the cost of the petitioner.