

(2015) 03 PAT CK 0001

In the Patna High Court

Case No : Criminal Writ Jurisdiction Case No. 324 of 2014

Rajesh Kumar

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 02-03-2015

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Penal Code, 1860 (IPC) — Section 363, 366A

Citation : (2015) 03 PAT CK 0001

Hon'ble Judges : Ashwani Kumar Singh, J.

Bench : Single Bench

Advocate : Shyam Bihari Prasad and Pramod Kumar Bhartiya, for the Appellant;
Prabhu Narayan Sharma, A.C. to A.G., Advocates for the Respondent

Final Decision : Dismissed

Judgement

Ashwani Kumar Singh, J.—Heard learned counsel for the petitioner and learned counsel for the State.

2. The petitioner is informant of Shastrinagar P.S. Case No. 454 of 2013 registered under Sections 363 and 366A of the Indian Penal Code. In this application filed under Articles 226 and 227 of the Constitution of India, the petitioner has made three prayers. The first prayer is to direct the investigating agency or the investigating officer of the aforesaid police case to hand over the abducted minor girl to the informant who is kept in Balika Grih Bal Adhikarita Samajik Nyaya Ewam Adhikarita Vibhag, Mandor, Rajasthan (hereinafter referred to as "Balika Grih"). The second prayer is to direct the investigating officer to book the culprit Jeetendra Kumar Chhabra @ Jeetu as he is sole abductor of the minor daughter of the informant. The third prayer is to hold that the investigation of the aforesaid police case shall be under the control of the civil court at Patna, Bihar and not under the control of Judicial Magistrate-1st Class, Abu Road, Shirohi (Rajasthan).

3. It has been contended that the aforesaid police case relates to abduction of

the minor daughter of the informant. She was recovered at Abu Road in Rajasthan. She had been produced before a Judicial Magistrate-1st Class at Abu Road, Rajasthan. The learned Magistrate recorded the statement of the girl got her medically examined and sent her to Balika Grih. The order passed by the learned Magistrate-1st Class, Abu Road, District-Shirohi (Rajasthan) is wholly illegal and arbitrary as he had no jurisdiction to interfere with the investigation of the case which is being conducted by a Police Officer of Shastrinagar Police Station, Patna. The jurisdiction to pass any judicial order in respect of the aforesaid police case was vested with Judicial Magistrate, Patna and, hence, the order by which the learned Judicial Magistrate at Rajasthan remanding the daughter of the informant to Balika Grih Bal Adhikarita Samajik Nyaya Ewam Adhikarita Vibhag, Mandor, Rajasthan is fit to be set aside. He has also submitted that respondent No. 4 Jeetendra Kumar Chhabra @ Jeetu is the main person responsible for abduction of the minor girl of the informant and hence a direction be given to the police to arrest him without any undue delay.

4. On the other hand, learned counsel for the State has submitted that the order by which the daughter of the informant has been sent to remand home has not been brought on record. It is not known in which proceeding the daughter of the petitioner has been sent to Balika Grih. He has also submitted that, as a matter of fact, the daughter of the informant had herself expressed her willingness not to go with her parents. Referring to the medical report, he has submitted that it would suggest that on 16th February, 2014, the girl was of 17 years of age and, hence, as of date, she is major and free to take her decision.

5. Be that as it may be, since the order of the Judicial Magistrate-1st Class, Abu Road, District-Shirohi (Rajasthan) by which the daughter of the petitioner has been sent to remand home is not on record, it is not known under what circumstance she has been sent to Balika Grih. It is also not known as to whether any proceeding is pending before the learned Judicial Magistrate of Abu Road, District-Sirohi, Rajasthan. In absence of the order of the Magistrate by which the petitioner is aggrieved, it is not possible for this Court to express any opinion regarding the submissions made on behalf of the petitioner. In any view of the matter, once the daughter of the informant has been lodged in a Balika Grih pursuant to an order of the Court, the investigating officer of the Shastrinagar Police Station has no jurisdiction to bring her back without orders of the Court. In respect of the prayer made by the petitioner for arrest of respondent No. 4 of the case, I am of the opinion that no such direction can be given by this Court while the case is still under investigation. It is well settled that to hold investigation into a cognizable offence is the statutory right of police. At the stage of investigation, the Court has no role to play. It is for the police, who are investigating the matter, to see as to whether there is any material against respondent No. 4 to justify his arrest or not. Even otherwise, I find from the FIR that respondent No. 4 has not been named by the petitioner as an accused in the case.

6. For the reasons stated, hereinabove, I am of the view that this application suffers from vagueness. Accordingly, the application is dismissed.