
(2003) 12 PAT CK 0037

In the Patna High Court

Case No : Criminal Miscellaneous No. 31872 of 2003

Sunaina Devi

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 12-12-2003

Acts Referred:

Citation : (2004) 1 PLJR 678

Hon'ble Judges : I.P. Singh, J

Bench : Single Bench

Advocate : Ram Balak Mahto, for the Appellant; Surendra K. Thakur, for the Respondent

Final Decision : Dismissed

Judgement

I.P. Singh, J.—Heard the parties.

2. This application has been filed for quashing the order dated 28.10.2003 passed by the Additional Chief Judicial Magistrate, Vaishali at Hajipur, by which the praye has been made to release the girl from the Remand Home and the prayer has been made on behalf of the Investigating Officer of the Hajipur Town Police Station Case No. 536 of 2003 has been allowed and the Civil Surgeon, Vaishali has been directed to constitute a Medical Board for ascertainment of age of the victim girl Puja Singh alias Sangeeta Kumari and a report has been sought in this regard within 15 days from the date of receipt of the order made on behalf of the Petitioner.

3. Learned Counsel for the Petitioner has submitted that the girl is minor as per the date of birth in the matriculation certificate and the Petitioner being the mother of the girl is legal guardian of the victim girl. She is ready to keep her daughter and has never threatened to kill her. Learned S.D.J.M. illegally remanded her daughter, the victim, in the remand home instead of releasing her in the custody of legal guardianship. The Court on the instance of accused persons conceded the request of the police for ascertaining the age of the victim

girl.

4. A counter-affidavit has also been filed on behalf of the victim girl Puja in which it has been stated that even though it was necessary but the victim girl has not been made party in this instant case. It has been stated that the application filed for quashing of the impugned order dated 28.10.2003, whereby the learned Magistrate has directed to constitute the Medical Board to assess the age of the girl was no way bad in law. It has been also submitted that actually date of birth of the victim girl is 19.10.1983 and the Medical Board which has been constituted in pursuance of the order to her age about 19/20 years after examining the girl which fully corroborates her age. As such, it has been stated that she being the major, she was free to marry with anyone and parents should not have any objection to the same. Thus, now the objection filed by the Petitioner has no locus standi as the girl has been declared major by the Medical Board.

5. On the other side, I.A. No. 970/2003 has been filed on behalf of the Petitioner in which it has been prayed that another Medical Board should be constituted of the doctors of the P.M.C.H. to ascertain the age of the girl. The Medical Board constituted by the Civil Surgeon, Vaishali included a doctor who was a tenant of the accused persons and very close to them. The said doctor had helped the Petitioner and wrongly assessed the age of the girl.

6. As per the report of the Medical Board, the girl namely, Kumari Puja Singh alias Pooja Kumari alias Sangeeta Kumari is aged about 19/20 years, therefore, she is major. As such, she is free to take her own decision and she is free to live with anyone or even alone. As such, it is directed that she will be immediately released from the Remand Home and the authorities concerned must comply with the order.

7. Accordingly, I.A. No. 970/2003 is disposed of and the petition is dismissed.