

Lalmani Devi vs The State on 22 February, 1956

The Sub-divisional Magistrate of Gaya issued distress warrant against Nawal Kishore and a search warrant for the production of Lalmani Devi. On the 21st January, 1956 Nawal Kishore Prasad Sinha, the accused in the **kidnapping case**, was produced in custody before the Subordinate Magistrate. Lalmani Devi was neither found nor produced. A prayer for bail was made on behalf of Nawal Kishore, but the Sub-divisional Magistrate went on postponing the disposal of the application on the ground that he would consider it after the girl was produced.

first ground was that she had to be detained because she should be medically examined by a lady doctor in order to find out her age. The second ground was that her statement had to be recorded after she had been in jail custody outside the influence of Nawal Kishore, the accused in the **kidnapping case**. The third was that there was an apprehension of a breach of the peace if she was released.

The learned Sub-divisional Magistrate fixed the 7th February, 1956 for further hearing of the matter. Nothing substantial appears to have occurred on that date but her statement was recorded under [Section 164](#) of the Code of Criminal Procedure on the 11th February, 1956. In the meantime the application under [Section 491](#) and [Article 226](#) was placed before us on the 9th February, 1956. We then directed that the Sub-divisional Officer should get Lalmani Devi examined by a competent lady doctor and submit her report to this court. Accordingly a lady doctor examined Lalmani Devi on the 15th February, 1956 and her report has been forwarded to us.

7. The question that now arises is whether she should be made over to some particular person, or party for keeping her in safe custody, or she should be set at liberty. The learned Advocate General has vehemently urged that the **kidnapping case** against Nawal Kishore Prasad will have no chance of success at all if the petitioner is allowed to go with him.

8. We directed the petitioner to be produced in this Court, and she was produced before us yesterday. Her statement was also recorded in this Court. She stated that she wanted to go with Nawal Kishore whom she had married in December, 1954. Her father was present in Court, and we asked her whether she would like to go with him. Her answer was that she would like to go with the man whom she had married, even if there was any danger to her life on that account. She has, therefore, clearly expressed her desire to go with Nawal Kishore.

As we have already mentioned, the **case** of **kidnapping** against Nawal Kishore is not likely to suffer on account of any statement made by the petitioner in future because its success or failure will mainly depend upon what is found to be her age. We must repeat that our observations on the question of her age will not be binding upon the Magistrate who tries the **kidnapping case** and he should not be embarrassed by it. He will come to his own conclusions on this point on the materials before him.