

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 14 of 2022

1. Manu Khanna @ Mannu Khanna, aged about 49 years, son of Raj Kumar Khanna, Resident of House No. C-29, Teliabagh, P.O. - Teliabagh, P.S. -Chetganj, District -Varanasi, Uttar Pradesh.
2. Ruchi Khanna, aged about 46 years, wife of Manu Khanna, Resident of House No. C-29, Teliabagh, P.O. -Teliabagh, P.S. -Chetganj, District -Varanasi, Uttar Pradesh.

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Petitioners

Versus

1. The State of Jharkhand
2. Sunita Dungdung, aged about 24 years, D/o Late Mohan Dungdung, R/o -Vill -Dhodhibahar, Harrah Tola, P.S.+P.O. - Thethai Tanger, District -Simdega, Jharkhand.

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Opp. Parties

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Petitioner

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: Mr. Harsh Chandra, Advocate

: Mr. Navin Kumar, Advocate

: Ms. Sweta Kumari, Advocate

For the State

: Mr. P.D. Agrawal, Spl. P.P.

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By the Court:-

1. Heard the parties.
2. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 482 Cr.P.C. with a prayer to quash the entire criminal proceeding in connection with Anti Human Trafficking Unit (A.H.T.U.) P.S. Case No. 04 of 2016 corresponding to G.R. Case No. 47 of 2016 registered for the offences punishable under Section 363 and 370(4) of the Indian Penal Code and Section 23/26 of the Juvenile Justice (Care and Protection of Children) Act as well as the order taking cognizance dated 03.03.2020, passed by the learned Chief Judicial Magistrate, Simdega in respect of the said offences.

3. The brief facts of the case is that the petitioners along with the co-accused persons enticed away the minor victim girl aged 10 years out of the keeping of the lawful guardian of the minor victim girl without the consent of her guardian and thus kidnapped the minor victim girl for the purpose of exploitation of the minor victim girl; recruited, harbored and received her and thus trafficked the minor victim girl and having the actual charge and control over the minor victim girl, assaulted, abused and willfully neglected the minor victim girl and kept her in bondage for the purpose of employment. Police after investigation of the case found the allegation against the petitioner to be true and submitted charge sheet against the petitioners on the basis of which the learned Chief Judicial Magistrate, Simdega has taken cognizance of the said offences.
4. It is submitted by the learned counsel for the petitioners that the allegation against the petitioners is false. The petitioners have two daughters and the victim girl was working in the house of the petitioners as care taker from November, 2011 at Varanasi and with her due consent, she was taken to Chandigarh by the petitioners. On 11.10.2013, the child helpline of Chandigarh administration came to the house of the petitioners on an anonymous complaint that the petitioners are keeping a juvenile in their house. It is next submitted that the victim was working as a care taker in the house of the petitioner and she was a major girl at the time of her employment. It is then submitted that the age of the victim girl, upon a radiological examination was found out to

be 20 years on 15.10.2013. Hence, it is submitted that the prayer as made for in this criminal miscellaneous petition be allowed.

5. The learned Spl. P.P. on the other hand vehemently opposes the prayer for quashing the entire criminal proceeding in connection with Anti Human Trafficking Unit (A.H.T.U.) P.S. Case No. 04 of 2016 corresponding to G.R. Case No. 47 of 2016 registered for the offences punishable under Section 363 and 370(4) of the Indian Penal Code and Section 23/26 of the Juvenile Justice (Care and Protection of Children) Act as well as the order taking cognizance dated 03.03.2020, passed by the learned Chief Judicial Magistrate, Simdega in respect of the said offences. It is next submitted by the learned Spl. P.P. that the fact remains undisputed that on 03.02.2016, the victim girl was 24 years of age and the allegation is that she was engaged by the petitioners 14 years before that which means that she was engaged by the petitioners when she was 10 years only. It is next submitted that the petitioners admit that they employed the victim girl and they were in charge and control of the victim girl. It is then submitted that there is direct and specific allegation against the petitioners that the petitioners assaulted and abused the minor victim girl and exploited the minor victim girl as a child employee. It is next submitted that the contention of the petitioners of showing their innocence is at best a defence which cannot be considered at this stage and the same can be taken at the time of trial of the case. It is then submitted by the learned Spl. P.P. that Section 23 and 26 of the Juvenile Justice Act for which cognizance has been taken by the learned Chief Judicial

Magistrate, Simdega perhaps refers to the old Juvenile Justice Act but on the basis of the allegations the relevant provision would be Section 75 and 79 of the Juvenile Justice (Care and Protection of Children) Act, 2015 besides the offences punishable under the Indian Penal Code and merely because some error in recording of correct Section of the Penal Provision in respect of some of the offences by the learned Chief Judicial Magistrate, the same is not sufficient to quash the entire criminal proceeding when undoubtedly the allegations made in the F.I.R., the materials collected during the investigation of the case as well as the statement of the witnesses recorded during the investigation of the case undisputedly shows the offence punishable under Section 75 and 79 of the Juvenile Justice (Care and Protection of Children) Act, 2015 besides the offences punishable under Section 363 as well as Section 370(4) of the Indian Penal Code. Hence, it is submitted that there is no justifiable reason to quash the entire criminal proceeding against the petitioners. It is therefore submitted that this criminal miscellaneous petition being without any merit be dismissed.

6. Having heard the submissions made at the Bar and after going through the materials in the record, the undisputed fact remains that if the allegations made in the F.I.R., the materials collected during the investigation of the case including the statement of the witness recorded during the investigation of the case are treated to be true in its entirety certainly the offences punishable under Section 363 and 370(4) Cr.P.C. as well as Section 75 and 79 of the

Juvenile Justice (Care and Protection of Children) Act, 2015 is made out.

7. It is a settled principle of law that the inherent power under Section 482 Cr.P.C. should not be exercised to stifle a legitimate prosecution as has been held by the Hon'ble Supreme Court of India in the case of **Monica Kumar (Dr.) and another v. State of U.P. and others**, reported in (2008) 8 SCC 781.
8. It is also a settled principle of law that the veracity of the allegations made in the F.I.R. cannot be decided in exercise of the power under Section 482 Cr.P.C. by entering into a roving enquiry.
9. Under such circumstances, this Court is of the considered view that this is not a fit case where the entire criminal proceeding in connection with Anti Human Trafficking Unit (A.H.T.U.) P.S. Case No. 04 of 2016 corresponding to G.R. Case No. 47 of 2016 registered for the offences punishable under Section 363 and 370(4) of the Indian Penal Code and Section 23/26 of the Juvenile Justice (Care and Protection of Children) Act as well as the order taking cognizance dated 03.03.2020, passed by the learned Chief Judicial Magistrate, Simdega in respect of the said offences be quashed and set aside.
10. Accordingly, this criminal miscellaneous petition being without any merit is dismissed.

(Anil Kumar Choudhary, J.)