

30.9.2015

Shri Yash Sharma Advocate for the petitioner.

Shri Vishal Mishra, Dy. Advocate General for the respondent/State.

This petition seeking issuance of writ of habeas corpus has been filed on the factual background that an order was passed by the Judicial Magistrate First Class, Gwalior dated 19.9.2014 to the effect that since the corpus prima facie appears to be minor she be kept in Nari Niketan during pendency of trial in Crime No. 163/2014 in respect of offence punishable u/Ss. 363, 366 and 376 of IPC. The corpus was prosecutrix in the said case.

2. The said offences have resulted into acquittal of accused Komal Singh by judgment dated 13.4. 2014 passed in Sessions Trial No. 02/2015 by the Second Additional Judge to the Court of Sessions Judge, Dabra, Distt. Gwalior vide Annexure P-1. In the said judgment at para 12 it is specifically held that prosecution failed to prove that corpus is below the age of 18 years.

3. In view of the fact that accused has been acquitted and there is no other document to establish that the corpus is below the age of 18 years, it would be safe to

presume that she is major and therefore her further retention in Nari Niketan even for a day would be unlawful.

4. Accordingly, this court directs the authorities of Nari Niketan concerned to forthwith release the corpus.

5. With the above said direction and observations present Writ Petition (Habeas Corpus) is disposed of.

6. Copy of the order be supplied to Nari Niketan concerned.

(Sheel Nagu)
Judge

(Rohit Arya)
Judge

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