

**Court No. - 49**

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**Case :-** HABEAS CORPUS WRIT PETITION No. - 733 of 2020

**Petitioner :-** Pradeep Kumar Chauhan And Another

**Respondent :-** State Of U.P. And 3 Others

**Counsel for Petitioner :-** P.K. Upadhyay

**Counsel for Respondent :-** G.A.

**Hon'ble Vivek Agarwal,J.**

Heard Sri Vinod Kumar Yadav, learned counsel for the petitioners, learned A.G.A. and perused the record.

This Habeas Petition has been filed by Pradeep Kumar Chauhan-petitioner No.1 seeking production of corpus of Ms. Bandana D/o respondent No.4. Petitioner No.1 claims that petitioner No.2 Ms.Bandana is his dully wedded wife. He further submits that petitioner No.2 Ms. Bandana is illiterate.

However, Vikas Goshwami, learned A.G.A. has produced her school certificate issued by Head Master of Saraswati Public School, Fatteypur, Shahupuri, Chandauli showing date of birth as per her school records is 14.08.2004. It is also mentioned in the said certificate that Ms. Bandana Yadav is student of class 7th.

Sri Vikas Goshwami, learned A.G.A. is directed to supply copy of this certificate to Sri Vinod Kumar Yadav, learned counsel for the petitioners, during the course of the day.

Sri Vinod Kumar Yadav, learned counsel for the petitioners prays for and is granted 10 days' time to file counter affidavit to this certificate along with the cogent documentary evidence in regard to date of birth i.e. either her certificate from the school attended by Ms. Bandana Yadav or a birth certificate issued by a Corporation or a Municipal Authority or a Panchayat issued

prior to the date of lodging the F.I.R.

At this stage, Sri Vinod Kumar Yadav, learned counsel for the petitioners submits that the Investigating Officer got examined the corpus at Pt. D.D.U. Govt. Hospital, Varanasi by the concerned radiologist and Chief Medical Officer whereupon in examination, age of the victim has been determined to be 19 years. This medical was conducted on 13.11.2019. It is further pointed out by the learned counsel for the petitioners that the statement of victim was recorded under Section 164 Cr.P.C. before the concerned Chief Judicial Magistrate, Court No.1 Mirzapur on 08.11.2019 wherein the victim has admitted that she and petitioner No.1 Pradeep Kumar Chauhan were studying in the same school, therefore, in the light of this statement given by the victim, the conduct of Investigating Officer becomes doubtful.

It appears that either Investigating Officer is not aware of the procedure and the provisions contained in the Juvenile Justice (Care and Protection of Children) Act, 2015 or with a view to shield the accused person, he has directed the victim to undergo medical examination.

This requires thorough enquiry in the matter.

The Director General of Police, U.P. is directed to immediately issue a circular/order informing all the investigating Officers through respective Superintendents of Police, the manner in which investigations to be carried out. He shall also ensure that all the Investigating officers are given periodic training and Ist phase of periodic training be completed within one year after drawing a time-table/ roaster for said training to be imparted in various Police Academies of the State including training for forensic and scientific investigation.

The Director General will submit first report before the Registrar General before expiry of three months from today as to the steps taken from rendering training on the aspect of the investigation to all the Investigating Officers posted in the State of Uttar Pradesh.

He shall also cause conduct of an inquiry to be carried out in relation to be alleged misconduct of the Investigating Officer of the present case viz. Sanjeev Kumar Singh, Narayanpur, Police Station-Adalhat, Mirzapur and to take strict disciplinary action against the Investigating Officer, who conducted the Investigation.

The D.G.P. concerned will also furnish 2nd, 3rd and 4th report at quarterly intervals, giving details of persons deputed for training, resources deployed and details of persons, who could not be deputed for training or who refused to undergo training.

This order is made in the light of law laid down by Supreme Court in **Prakash Singh vs. Union of India (2006) 8 SCC 1**.

Copy of this order will be communicated by learned A.G.A. to the Director General of Police concerned.

Let a copy of this order be supplied to the Registrar General of this High Court.

List on 24.08.2021 in the additional cause list.

**Order Date :- 10.8.2021**

Pr/-