

Criminal Revision
Present: **The Hon'ble Justice Ashim Kumar Roy**
Judgment on: 10.03.2010
C.R.R. No. 4478 of 2009

Priyanka Karmakar @ Mondal
versus
State of West Bengal & Anr.

Point:

MAJORITY: A victim attains majority- Whether can be released on her personal bond - Code of Criminal Procedure, 1973 S. 482.

Fact: The petitioner, who is a victim of a case relating to offences punishable under Sections 363/365/366/34 of the Indian Penal Code, after her recovery was produced before the Ld. Chief Judicial Magistrate and subsequently she was remanded to home for safe custody. The petitioner by filing the instant application has challenged the order of the Ld. Magistrate whereby the application filed by her mother was allowed and direction was passed to release her to the custody of her mother.

Held:

Having regard to the materials on record, more particularly, the certificate of birth, it appears at the present moment she is aged about more than 18 years. The correctness of such certificate has not been disputed by the learned advocate of the State. Thus, from perusal of the certificate of birth, it is prima facie evident that she is no more a child. In such circumstances, she has every right to be released on her personal bond and to go to a place of her own choice.

(Paragraphs – 2 & 3)

For Petitioner : Mr. Shekhar Barman

For State : Mr. Swapan Kumar Mullick

The Court: The present petitioner, who is a victim of a case relating to offences punishable under Sections 363/365/366/34 of the Indian Penal Code after her recovery was produced before the Learned Chief Judicial Magistrate, Barasat when the Learned Magistrate remanded her to home for safe custody. Thereafter, three applications were moved, one by the mother of the petitioner, and remaining two by a neighbour of the accused kidnapper and by the petitioner herself. However, the Learned Magistrate allowed the application of the mother and directed she to be released to the custody of the mother. But the petitioner refused to go to the custody of her mother and challenge the said order before this Court in this criminal revision.

2. Now, having regard to the materials on record, more particularly, the certificate of birth, it appears at the present moment she is aged about more than 18 years. The correctness of such certificate has not been disputed by the learned advocate of the State. Thus, from perusal of the certificate of birth, it is prima facie evident that she is no more a child.

3. In such circumstances, she has every right to be released on her personal bond and to go to a place of her own choice.

4. Accordingly, the impugned order is set aside and the Learned Magistrate is directed to release her on her personal bond.

5. This criminal revisional application is, thus, disposed of.

6. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)