

Chief Justice's Court

Case :- SPECIAL APPEAL No. - 361 of 2023

Appellant :- Durgama Tripathi Thru. Friend Praduman Kumar Yadav

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. Civil Sectr. Lko. And Others

Counsel for Appellant :- Iqbal Ahmad, Mohd. Kumail Haider

Counsel for Respondent :- G.A.

Hon'ble Pritinker Diwaker, Chief Justice

Hon'ble Jaspreet Singh, J.

Heard Mohd. Kumail Haider, learned counsel for the appellant and Sri Badrul Hasam, learned Additional Government Advocate for the State-respondents.

The instant special appeal has been preferred against the order dated 15.06.2023 passed by the learned Single Judge in Habeas Corpus Writ Petition No. 191 of 2023 whereby the petition was dismissed noticing that the alleged detenu was living happily with her husband.

The learned counsel for the appellant has submitted that the findings recorded by the learned Single Judge is erroneous, inasmuch as, the detenu is already contesting a divorce case and there can be no reason why such a finding has been recorded that the detenu is living happily with her husband.

It has further been urged that the father as well as the husband of the detenu are not permitting the detenu to live freely and her whereabouts are not known rather she is alleged to be illegally detained and is under grave threat.

Having considered the aforesaid submissions and from the perusal of the material on record, at the outset, it may be noticed that the *locus-standi* of the present appellant Sri Praduman Kumar Yadav who states himself to be the next friend has not been adequately disclosed. The very fact that the alleged detenu is contesting a divorce petition, it cannot be said that there is any illegal detention. Whether she is happily married or not is not an issue to be gone into in a petition under Habeas Corpus. The only issue as to whether the detenu has been illegally detained is to be considered and from the facts available on record, there is nothing to suggest that the detenu has been illegally detained.

In view of the aforesaid, we do not find that there is any error in the decision rendered by the learned Single Judge, accordingly, the appeal is **dismissed**.

Order Date :- 19.7.2023

Asheesh

(Jaspreet Singh,J.) (Pritinker Diwaker,CJ.)