

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 171 of 2024

Petitioner :- Chandani Thru Her Next Friend. Vinay Kumar Mishra

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko And 3 Others

Counsel for Petitioner :- Dr. Ajai Pratap Singh Chauhan

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

1. Vakalatnama filed today in the Court by Shri Sunendra Kumar, Advocate on behalf of respondent No.4 is taken on record.

2. Heard Shri Dr. Ajai Pratap Singh Chauhan, learned Counsel for the petitioner, Shri Sunendra Kumar, learned Counsel for respondent No.4, Shri Ashok Kumar Singh, learned A.G.A-I for the State-respondent No.1, 2 and 3 and perused the material placed on record.

3. This Habeas Corpus Writ Petition has been filed on behalf of Chandani through her next friend Vinay Kumar Mishra with following main prayers:-

"i. Issue a writ, order or direction in the nature of Habeas Corpus, commanding and directing opposite parties to produce the detainee, namely-Chandani, D/o Late Kamal Kishore Trivedi, resident of Village-Kotra Bandi Kheda, Police Station-Pisawan, District-Sitapur.

ii. Issue any other writ, order or direction which this Hon'ble Court may deem fit and appropriate in the circumstances of the case.

iii. Award the cost of the petition in favour of the petitioner."

4. Learned Counsel for the petitioner submits that the detainee, namely-Chandani is aged about 18 years D/o Late Kamal Kishore Trivedi, resident of Village-Kotra Bandi Kheda, Police Station-Pisawan, District-Sitapur and as per the case set up by the petitioner, the detainee has been kept under illegal detention by respondent No.4. He further submits that the petitioner and the detainee were in love affair since long but the family members of the detainee were not happy with their love affair and they want to solemnize the marriage of the detainee with some other person due to this the detainee and the petitioner

recently fled from their house, thus, it is clear that the detenue does not want to marry any other person and wants to live with the petitioner. He further submits that the petitioner and detenue are major individuals and they may be allowed to live with each other, thus, this writ petition has been filed with aforesaid prayers and interference by this Court is necessary in the matter.

5. On the other hand, Shri Sunendra Kumar, learned Counsel for the respondent No.4 as well as Shri Ashok Kumar Singh, learned A.G.A-I for the State-respondent No.1, 2 and 3 has opposed the submissions advanced by learned Counsel for the petitioner, namely-Vinay Kumar Mishra and submits that except some vague averments made in this petition there is nothing on record to demonstrate this fact that the detenue and the petitioner, namely-Ashish Kumar were in relationship or they have love affair between them and they were going to solemnize marriage with each other, thus, it appears that the entire story as narrated by the petitioner, namely-Vinay Kumar Mishra is false and fabricated only with the intention to defame the image of the detenue and her family members in the society, the next friend of the petitioner wants to take an advantage of the order of this Court. They further submit that in the year 2023, the petitioner enticed away the detenue and the family members of the detenue lodged an FIR against the petitioner, which was registered as Case Crime No.0244/2023 under Section 363 and 366 I.P.C. and Section 16/17 of POCSO Act, Police Station-Maholi, District-Sitapur, later on, after recording the statement of the detenue under Section 161 and 164 Cr.P.C., the Investigating Officer inserted Section 376 I.P.C. and Section 3/4 of POCSO Act and deleted Section 16/17 of POCSO Act and submitted the chargesheet against the petitioner. They further submit that as the family members of the detenue lodged an FIR against the petitioner, therefore, the petitioner has filed this petition so that the family members of the detenue may compromise the situation and may not pursue the criminal case registered by them against the petitioner.

6. Learned Counsel for the respondent No.4 and Learned A.G.A-I for the State-respondent Nos.1, 2 and 3 also submits that we live in a society, which does not permit us to live or make relationship in the form, which has been narrated in the present petition. He further submits that the case of the petitioner, namely-Vinay Kumar Mishra is nothing but a ploy to defame the image of the detenue and her other family members so that the family members of the detenue under pressure and fear of insult in the society may compromise the situation, thus, this petition may be dismissed so that in future nobody tries to take advantage of this Court in such type of situations.

7. After considering the arguments of learned Counsel for the parties and after perusal of the material placed on record, this Court is satisfied with the argument made by learned Counsel for the respondent No.4 and learned A.G.A-I for the State-respondent Nos.1, 2 and 3 and express its opinion that the averments made in this petition are nothing but a ploy to defame the image of the detinue as well as her family members, the Court is also not satisfied with the submission advanced by learned Counsel for the petitioner that the detinue is under illegal detention as she is major and is currently residing with her family members, further, no document has been annexed with this petition, which shows that there is any affiliation or affection between the detinue and the petitioner, namely-Vinay Kumar Mishra. Further, there is nothing on record to demonstrate this fact that the detinue had made any complaint to any competent authority about her alleged illegal detention as claimed by the petitioner. Further, it is not in dispute that the detinue is a major girl aged about 18 years and she knows her welfare very well.

8. Accordingly, this Court does not find any justification to entertain this type of petition and to frustrate this type of petition filed by any such person in future only with the intention to defame the image of a girl or her family members, who are living in a society and if the Court entertains this type of petition, the image and reputation of family members as well as of the girl will certainly be demolished and it will be very difficult for a family who has been roped in these type of cases to solemnize the wedding of their girl in future to any other family of their choice.

9. Further, this Court is of the view that we are not living in a western country, where this type of relationship is very popular and common among the citizens, We live in country, where people believe in culture and traditions, which is the crown of our country and we are proud of it, therefore, we have to respect the traditions and culture of our country. Coming to the case of the petitioner, namely-Vinay Kumar Mishra, which is nothing but a ploy to defame the image of the detinue and her other family members so that the family members of the detinue under pressure and fear of insult may compromise the situation.

10. In view thereof, the present petition lacks merit and substance and is hereby **dismissed**.

11. No order as to cost(s).

Order Date :- 16.7.2024

Piyush/-