

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 216 of 2024

Petitioner :- Smt. Laxmi And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko And 5 Others

Counsel for Petitioner :- Anil Kumar Tiwari,Ujjawal Tewari

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Heard Sri Anil Kumar Tiwari, learned counsel for the petitioner as well as Sri Ashok Kumar Singh, learned A.G.A.-I for the State and perused the record.

The instant writ petition has been filed seeking issuance of writ, order or direction in the nature of Habeas Corpus commanding and directing the opposite parties to produce the petitioner (detenue) before this Hon'ble High Court and she may be set at liberty under the care and custody of her husband.

Learned counsel for the petitioner submits that the marriage of the Smt. Laxmi (the detenue) and Manish Kumar Rawat (the next friend of the detenue) was solemnized on 24.06.2018 and they were living happily. He further submits that the opposite party nos.4 to 6, who are brothers of the detenue have detained the detenue illegally alongwith her minor child.

On the other hand, learned A.G.A.-I for the State submits that the detenue is not under illegal custody as she is willingly living with her brothers and respondent nos.4 to 6 are brothers of the detenue. He further submits that it cannot be said that the major girl living with her brothers after marriage is under illegal detention. The detenue is major and she is free to live anywhere she wants on her own sweet will and even though the next friend, who claims to be husband, has not annexed any document to justify that they are married to each other nor any marriage registration certificate is filed alongwith the petition nor any other relevant document is filed, which shows that they are married legally as per Hindu rites and rituals except some photographs.

Learned A.G.A.-I further submits that if the detenue is legally wedded wife and she is not coming from her brothers' house to live with the next friend, Manish Kumar Rawat, then he has a

remedy to file a suit under Section 9 of the The Hindu Marriage Act, 1955 before the appropriate forum but not the present petition of Habeas Corpus for custody of wife claiming that she is under illegal detention.

After hearing learned counsel for the respective parties, this Court finds that the detenue is not under illegal custody as she is willingly living with her brothers and respondent nos.4 to 6 are brothers of the detenue and it cannot be said that the major girl living with her brothers after marriage is under illegal detention as the detenue is major and she is free to live anywhere she wants on her own sweet will. This Court further finds that the next friend, who claims to be husband, has not annexed any document to justify that they are married to each other nor any marriage registration certificate is filed alongwith the petition nor any other relevant document is filed, which shows that they are married legally as per Hindu rites and rituals except some photographs.

With the above observations, the instant writ petition is **disposed of** with liberty to the petitioner to avail remedy as available under Section 9 of the The Hindu Marriage Act, 1955 to file a suit before the appropriate forum.

Order Date :- 25.7.2024
Saurabh