

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 232 of 2024

Petitioner :- Alpha Thru. Dilshad (Husband) And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko And 6 Others

Counsel for Petitioner :- Rajesh Kumar Gupta, Abhyuday Misra

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed, J.

Heard Sri Rajesh Kumar Gupta, learned counsel for the petitioner and Sri Ashok Kumar Singh, learned A.G.A.-I for the State.

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.

The petitioner has earlier filed a writ petition bearing Habeas Corpus Writ Petition No.211 of 2024, wherein this Court has passed the following order on 23.07.2024, which is being quoted hereunder:-

"Heard Sri Rajesh Kumar Gupta, learned counsel for the petitioner and Sri Ashok Kumar Singh, learned A.G.A.-I for the State.

Learned counsel for the petitioner submits that he do not want to press this petition at this stage and the same may be dismissed as not pressed with liberty to file afresh as he has to file some relevant documents.

Sri Ashok Kumar Singh, learned A.G.A.-I for the State has no objection to the prayer made by learned counsel for the petitioner.

Accordingly, the instant writ petition is dismissed as not pressed with liberty to file afresh.

Certified copy of relevant documents be returned back to the learned counsel for the petitioner after keeping photostat copies thereof on record."

Today, on perusal of the file, it reveals that only computerized copy of wedding invitation card has been annexed with the writ petition and no other relevant documents has been annexed nor

any marriage registration certificate has been filed alongwith the writ petition. Thus, it cannot be said that the detenue and the next friend are legally wedded as husband and wife.

Learned A.G.A.-I for the State also submits that the detenue is not under illegal custody as she is willingly living with her parents and respondent no.4 is father of the detenue. He further submits that it cannot be said that the major daughter living with her father 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.

Learned A.G.A.-I further submits that if the detenue is legally wedded wife and she is not coming from her parents' house to live with the next friend, then he has a remedy to file a suit for Rukhsati 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 parents and respondent no.4 is father of the detenue and it cannot be said that the major daughter living with her father 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.

With the above observations, the instant writ petition is **dismissed**.

Order Date :- 6.8.2024

Saurabh