

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 271 of 2024

Petitioner :- Simran Gupta @ Simran Kasodhan Thru. Her Husband Sachin Kumar

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

Counsel for Petitioner :- Mohd. Haroon

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Heard Sri Mohd. Haroon, 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 Simran Gupta @ Simran Kasodhan (the detenue) and Sachin Kumar (the next friend of the detenue) was solemnized on 17.02.2024 and they were living happily. He further submits that thereafter the opposite party nos.4 to 7 came to his home and forcefully took away the detenue with them.

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 family members and respondent nos.4 & 5 are father and mother of the detenue respectively. He further submits that it cannot be said that the major daughter living with her parents 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.

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, Sachin Kumar, 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 parents and respondent nos.4 & 5 are father and mother of the detenue respectively and it cannot be said that the major daughter living with her parents 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.

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 :- 19.9.2024
Saurabh