

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

HCP No. 97/2025

Taj Din , Aged 75 years,
S/o Khan Mir,
R/o Village Galak, Ramkote,
District Kathua.

..... Petitioner(s)

Through: Mr. Ajaz Chowdhary, Advocate.

vs

1. UT of J&K through
Commissioner/Secretary, Home
Department, Civil Secretariat,
Jammu/Srinagar.
2. The Senior Superintendent of Police
(SSP), Kathua.
3. The Station House Officer,
Police Station, Billawar.
4. The Incharge Police Post, Ramkote.
5. Mohd. Hussain, Gahu and Irshad, Sons
of Kashu
6. Masroor S/O Irshad
All residents of Village Haria Chak,
District Kathua.

..... Respondent(s)

Through: None.

CORAM: HON'BLE MR. JUSTICE M. A. CHOWDHARY, JUDGE

ORDER
(16.07.2025)

1. The petitioner through the medium of this petition seeks direction to the respondent nos. 2 to 4 to produce his Minor daughter alleged to have been wrongfully confined by respondent no. 5 to 8 against her wishes. As per the contention of the petitioner, missing report in this behalf was lodged on 10.06.2025 alleging that his daughter had gone missing on 07.06.2025 and in this behalf, FIR No. 0092/2025 has been registered at Police Station, Billawar.

2. Since the police has already acted upon the missing report and has lodged the FIR with regard to alleged wrongful confinement of the minor daughter of the petitioner, it will be for the investigating agency to investigate the matter and also to recover the minor daughter of the petitioner and get her statement recorded with regard to the alleged offences, against her person.

3. Section 101 of BNSS, 2023 is the summary procedure providing for power to compel restoration of abducted females including female children, on a complaint on oath to the Magistrate who may make an order for immediate restoration of such female/child to her liberty or to her guardian having the lawful charge of such child and Magistrate may compel compliance of such order, using such force as may necessary. It is profitable to extract the relevant provision contained under Section 101 of the BNSS as under:-

“101. Power to compel restoration of abducted females-Upon complaint made on oath of the abduction or unlawful detention of a woman, or a female child for any unlawful purpose, a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may make an order for the immediate restoration of such woman to her liberty, or of such female child to her parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.”

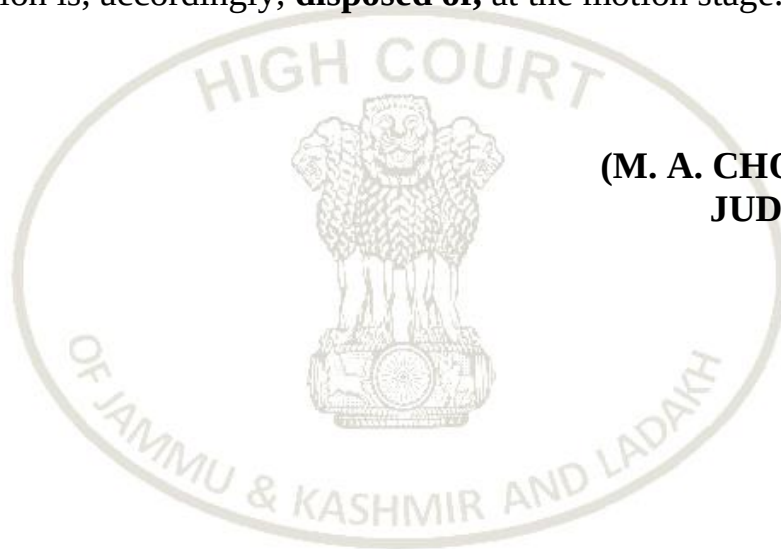
4. Viewed thus, the Habeas Corpus petition in this behalf with regard to mixed questions of law and disputed facts, with regard to the alleged abduction and wrongful confinement, which may hinge on the statement of the allegedly abducted child in the considered opinion of this Court, is not maintainable before this Court. Otherwise also, then the case has already been registered vide FIR No.

92/2024, the concerned Police is supposed to investigate the matter and in view of the sensitivity involved, to act swiftly for recovery of the child and examination for further proceedings.

5. Having this petition is **disposed of** with an advance to the petitioner that he may approach the competent Magistrate having jurisdiction under Section 101 of BNSS, 2023 for recovery of his female child and the Magistrate will be under an obligation to pass the necessary orders in this behalf. Copy of this order shall be endorsed to Senior Superintendent of Police, Kathua, for compliance.

6. The petition is, accordingly, **disposed of**, at the motion stage.

Jammu
16.07.2025
Neha-1



(M. A. CHOWDHARY)
JUDGE