

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.240 of 2015

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Dhiraj Kumar Singh @ Khodai Singh S/o Ramjee Singh, R/o Village-
Ramvan, P.S.- Pakri Dayal, District- East Champaran, Motihari

.... Petitioner

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna
3. Superintendent of Police, East Champaran, Motihari
4. Dy. Superintendent of Police, East Champaran, Motihari
5. Officer-in-Charge of Moffassil, East Champaran, Motihari
6. Chanda Khatoon @ Chanda Singh D/o Aziz Mian, R/o Village-
Pathparia, P.S.- Motihari Moffassil, District East Champaran, Motihari
7. Aziz Mian S/o Late Sahebjaan Mian, R/o Village- Pathparia, P.S.-
Motihari Moffassil, District East Champaran, Motihari

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate

For the Respondent/s : Mr. Vikas Kumar, AC to AG

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**CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR
DATTA**

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

2 22-04-2015 Heard learned counsel for the petitioner and learned
counsel for the State.

The present application has been filed praying for writ
in the nature of habeas corpus for the release of Chanda Khatoon
@ Chanda Singh, whom he claims to be his wife, from the custody
of the informant, who is the father of the said Chanda Khatoon @
Chanda Singh.

An FIR being East Champaran Mufassil P.S. Case
No.341/14 dated 9.10.2014 has been filed by respondent No.7
under Sections 366A and 120B/34 of the Indian Penal Code in
which the petitioner along with his father and mother and two
unknown persons have been named as accused persons alleging

that they had kidnapped his daughter who is aged 14 years. The girl was recovered by the police and her statement under Section 164 Cr.P.C. has been taken on 6.11.2014 before a Judicial Magistrate where she has stated that she is 20 years old and she had not been kidnapped, rather she has married the petitioner in Motihari court on her own accord. No statement has been made in the writ petition as to what proceedings took place in court thereafter but upon questioning learned counsel for the petitioner admits that the girl was handed over to the custody of her father by the court of Judicial Magistrate.

Be that as it may, there is nothing on the record to show that the girl is major. In the said circumstances, unless contrary is proved the custody of a minor would be with her natural guardian which respondent No.7 admittedly is. Moreover, since admittedly the matter is already before the court of Judicial Magistrate there can be no question of illegal detention.

The writ of habeas corpus would, thus, be not maintainable at all. It is, accordingly, dismissed.

(Ramesh Kumar Datta, J)

(Anjana Mishra, J)

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