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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1645/2016**

MOROMI PANDEY

..... Petitioner

Through: Mr. Sanjiv Sahai with Mr. Amit Singh
Rathore, Advocates.

Versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondent

Through: Mr. Rahul Mehra, Standing Counsel with
Mr. Tushar Sannu, Advocate for State/R-1.

Mr. Vineet Malhotra with Mr. Praveen Dabas and
Mr. Shubhendu Kaushik, Advocates for R-2 and 3.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

% **06.12.2016**

This is a petition under Article 226 of the Constitution of India. The petitioner claims to be the husband of Mr. Gyanendra Kumar Pandey. Petitioner also claims that Mr. Gyanendra Kumar Pandey is in illegal and wrongful confinement of respondent no. 3 and 4 with the aid of respondent no. 2. It may be clarified that respondent no. 3 and 4 claim to be the wife and son of Mr. Gyanendra Kumar Pandey.

As per the petition, the petitioner has been residing with her husband for more than 20 years in Gauhati, Assam. Mr. Pandey was initially working with Tata AIG General Insurance Company Limited in Assam and later on shifted to Gauhati. Thereafter, the petitioner and her husband were carrying on business in Dispur, Assam. The husband of the petitioner suffered Intracerebral Hematoma on 07.01.2016 and was admitted GNRC Hospital in Gauhati. Following the advice of the Doctors, the petitioner brought her husband to Delhi for treatment. He was admitted to Sir Ganga Ram Hospital on

13.02.2016. Finding no improvement, the respondent no. 2 and 3 suddenly and forcibly took advantage of the situation and removed Mr. Gyanendra Kumar Pandey from the custody of the petitioner and forcibly shifted him to House No. 19 & 20, Street No. 12, Om Vihar Phase-I, Nawada, Uttam Nagar, New Delhi-110059. In this backdrop, the present petition was filed.

Notice was issued in the matter. While issuing notice, Mr. Mehra had informed the court that Mr. Gyanendra Kumar Pandey was in Coma and is unconscious. On the next date of hearing, respondent no. 3 and 4 appeared. They informed the court that respondent no. 3 was legally wedded wife of Mr. Gyanendra Kumar Pandey, while respondent no. 4 is his son.

We had allowed the petitioner as an interim measure to meet Mr. Gyanendra Kumar Pandey on every Wednesday between 05.00 to 06.00 PM in the presence of the IO or any other lady Constable or police officer as authorised by the SHO of the area. The petitioner had undertaken not to create any nuisance during the meeting. This order was subsequently modified on 21.07.2016 and the time was changed to 05.00 to 06.30 pm.

By the present application, we are informed that Mr. Gyanendra Kumar Pandey has since been removed out of the jurisdiction of this court to Assam. Mr. Vineet Malhotra appearing for respondent no. 3 and 4 submits that Mr. Pandey has been removed to Tejpur, Assam, after informing the petitioner on account of medical reasons and taking into consideration the poor quality of air in Delhi.

After some hearing in the matter, it is agreed that the present petition may be disposed of with the following agreed order: -

- (i) The petitioner shall seek appropriate remedy as available in accordance with the law to seek custody of Mr. Gyanendra Kumar Pandey.
- (ii) Respondents no. 3 and 4 will not remove Mr. Gyanendra Kumar Pandey

from the present place at Tejpur, Assam, without informing the petitioner in writing and in any case not for a period of three months from today.

- (iii) Respondents no. 3 & 4 undertake that they will allow the petitioner and her daughter to meet Mr. Gyanendra Kumar Pandey at Tejpur, Assam for three hours on every Wednesday between 12.00 Noon to 03.00 pm.
- (iv) The petitioner will not cause any nuisance. The respondent no. 3 and 4 will ensure that the meeting is cordial.
- (v) In case a petition is filed by the petitioner, it is agreed that the copy thereof would be served at Rajeev Pandey, C/o June Bora, Vartak Vihar – Kamar Chhuri, Tezpur, District Sonitpur, Assam – 784001 (Mob: 8822233153).
- (vi) This arrangement will continue for a period of three months from today, during which period the petitioner shall seek appropriate remedy.

Copy of this order be brought to the notice of local police at Tejpur, Assam, who will provide a lady constable or other police officer in plain clothes to remain present at the time of the meeting, when the petitioner or her daughter is available.

Petition stands disposed of in above agreed terms.

Rights and contention of both the parties are kept open.

G.S.SISTANI, J

VINOD GOEL, J

DECEMBER 06, 2016

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