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

+ **W.P.(CRL) 2822/2016**

**NAGENDER RAM**

..... Petitioner

Through : Ms.Sija Nair Pal and Ms.Shalini Rana,  
Advts. along with petitioner.

versus

**UNION OF INDIA & ORS**

..... Respondents

Through : Mr.Sanjeev Sabharwal and Mr.Hem  
Kumar, Advts. for respondent no.1.  
Mr.Rahul Mehra, Standing Counsel (Crl.)  
and Mr.Tushar Sannu, Adv. for the State.  
SI Satbir Singh, P.S. Chhawla.

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

**HON'BLE MR. JUSTICE VINOD GOEL**

**ORDER**

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**23.11.2016**

1. This is a petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure seeking a writ of habeas corpus for production of Master Ayush Kumar and Master Ishan Kumar, both aged 3 years and 5 years, respectively, who are grand-children of the petitioner.
2. As per the petition, marriage of the daughter of petitioner and respondent no.4 was solemnised on 25.5.2009 against the wishes of the petitioner. Out of the marriage, two children were born, namely, Master Ayush Kumar and Master Ishan Kumar. Unfortunately, on 10.2.2015 the daughter of the petitioner died. After the death of the daughter of the petitioner, both the children were being looked after by the petitioner and his wife. On 5.5.2016 both the grand-children of the petitioner were abducted from the house of the petitioner. The petitioner made a

complaint to the concerned Police station, based on which FIR no.0197 dated 10.5.2016 was registered under Section 363 of the Indian Penal Code at Police Station Chhawala, however, since no step was taken by the Police, the petitioner was forced to file the present petition.

3. We have heard learned counsel for the parties and also perused the present writ petition. Notice in this petition was issued on 26.9.2016. Status report has been filed by the State as per which, both the children were not abducted but they are residing happily with their natural father, respondent no.4 herein.
4. It has been informed by Mr.Mehra that statement of respondent no.4 has been recorded under Section 164 of the Code of Criminal Procedure and the statements of both the children have also been recorded under Section 161 of the Code of Criminal Procedure before the Judicial Magistrate, First Class, Darjeeling. It has also been pointed out by Mr.Mehra that a cancellation report has been submitted by the Police before the concerned Metropolitan Magistrate, Dwarka Courts, Delhi, however, the petitioner has sought time to file a protest petition and the next date fixed before the said Court is 21.1.2017.
5. *Prima facie*, perusal of the writ petition shows that the marriage between the daughter of petitioner and respondent no.4 was solemnised against the wishes of the petitioner and, thus, the petitioner was not happy with the marriage.
6. Having regard to the facts of this case as stated hereinabove and in view of the submissions made by Standing Counsel for the State, no further orders are required to be passed in this petition and the same is accordingly disposed of, however, we make it clear that should a protest petition be filed by the petitioner, the learned Metropolitan Magistrate would consider the same in accordance with law and unaffected by any

observation made by this Court today.

**G.S.SISTANI, J**

**VINOD GOEL, J**

**NOVEMBER 23, 2016**  
msr /