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

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+ **W.P.(CRL) 2988/2017**

RAM JI

..... Petitioner

Through: Mr.Sidhant Gautam, Advocate.

versus

STATE OF NCT OF DELHI & ORS

..... Respondents

Through: Mr.Rahul Mehra, Standing Counsel (Crl.)
with Mr.Tushar Sannu, Mr.Prashant Singh
and Mr.Chaitanya Gosain, Advocates for
State.
Insp. B.R.Sankhla, SHO, P.S. Sagarpur and
SI Sandeep.
Mr.V.P.Yadav, Advocate for Geeta.
Insp. Ashok Kumar, SHO and SI Shyam Lal
Dagar, P.S. Pul Prahladpur, Delhi.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S.MEHTA

% **ORDER**
03.11.2017

1. This is a *habeas corpus* petition filed by Shri Ramji, son of Shri Mohan, resident of Prem Nagar, New Delhi seeking directions to the State (Respondent No.1) and Respondent No.2 to produce his wife Smt. Geeta.

2. The case of the Petitioner is that his wife Smt. Geeta went missing on 17th

August, 2017 and has not returned till date. According to the Petitioner, he wrote a letter to the SHO of Police Station (PS) Pul Prahladpur, Delhi on 28th September 2017, but no action was taken thereon. He suspected Respondent No.2 who resides in the neighbourhood as being responsible for her disappearance.

3. The present petition was filed on 9th October 2017, but lying in defect for some time thereafter. It came up for hearing first before the Court on 27th October, 2017 when one Mr. V.P. Yadav, Advocate appeared and stated that he has instructions from Smt. Geeta to act on her behalf. He further stated that Smt. Geeta would appear in Court on the next date of hearing. A direction to that effect was issued.

4. Today, Smt. Geeta appears in Court along with her Advocate.

5. Mr. Rahul Mehra, learned Standing Counsel for the State has placed before the Court the statement of Smt. Geeta recorded under Section 164 Cr PC by the Metropolitan Magistrate (Mahila Court), Saket Court complex in FIR No.201/2017, registered at PS Pul Prahladpur, Delhi under Section 365 IPC. Mr. Mehra informs the Court that the said FIR was registered on 9th October, 2017 on a specific complaint of that date by the Petitioner. He further states, on instructions from the IO SI Shyam Lal Dagar, that at the time when the aforesaid statement of Smt. Geeta was recorded under Section 164 Cr.P.C., the Petitioner was present.

6. In her statement under Section 164 Cr PC, Smt. Geeta has stated that she was initially married to one Janak Tandon with whom she had two children. After about 15 years, she started living with the Petitioner. However, he subjected her to beatings and was refusing to marry her. On 17th August, 2017, she boarded the train to return to her village in Madhya Pradesh. The Petitioner pursued her there in

the same train and kept quarrelling with her throughout to make her return with him. She alleges that the Petitioner gave her parents Rs.30- 40 thousand and stayed in her village for about 10 days. She alleges that even during this time she was subjected to torture by the Petitioner and there were frequent quarrels. He thereafter returned to Delhi. She has categorically stated that she is living in the village of her own free will; that she wishes to continue residing in the village and does not wish to stay with the Petitioner. She reiterated this today in Court as well.

7. Learned counsel for the Petitioner insisted that Respondent No.2 has forcibly taken away Smt. Geeta against her will. He also disputed that the Petitioner was present when statement of Smt. Geeta was being recorded by the learned MM under Section 164 Cr PC. According to him, one of the children of Smt. Geeta was born out of the wedlock with the Petitioner.

8. As can be noticed, the above assertions of counsel for the Petitioner have been contradicted by Smt. Geeta in her statement under Section 164 Cr PC as well as by the IO. Further, the IO instructs Mr Mehra that the police have not been able to establish the involvement of Respondent No.2.

9. In these proceedings, it is not possible for the Court to attempt to resolve disputed questions of fact. The essential purpose of a *habeas corpus* petition is to ensure that the person who is alleged to have been gone missing is not under the illegal detention of anyone. In the present case, from the materials placed before it, the Court is not persuaded that Smt. Geeta is at present being detained by any one against her free will. She is an adult who is free to decide where she wants to live and with whom.

10. As far as the Petitioner is concerned, a case is stated to have been instituted against him by Smt. Geeta complaining of domestic violence. He is in any event at liberty to seek other appropriate remedies for the grievances that he may have. No further directions are called for in this petition.

11. The petition is accordingly dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

NOVEMBER 03, 2017
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