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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 2954/2017

RAM SEWAK

..... Petitioner

Through: Mr Jogender Dhir and Mr Naman Gupta,
Advocates with Petitioner in person

versus

THE STATE NCT OF DELHI & ORS

..... Respondents

Through: Mr Rahul Mehra, Standing Counsel
(Crl.) with Mr Chaitanya Gosain, Advocate for
State with SI Vijay Kumar and ASI Arvind Kumar
PS Burari, Delhi

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

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15.12.2017

1.This is a writ petition in the nature of *habeas corpus* filed by the Petitioner seeking a direction to the Respondent No.1 State to produce Ms. Poonam. The Petitioner claims that he and Ms. Poonam got married on 3rd September, 2017 at the Arya Samaj Mandir, Bareilly, U.P. and were thereafter were residing at Gurgaon.

2. A criminal complaint was filed by Ms. Poonam's father (Respondent No.3) at Police Station ('PS') Burari, Delhi against the Petitioner under Section 363 IPC which lead to registration of an FIR No. 478/2017. Respondent No.3 alleged that Ms. Poonam had been forcibly abducted by the Petitioner. The Petitioner states that on 7th September, 2017, he was

asked to produce Ms. Poonam at PS Burari, Delhi on 7th September, 2017. From there Ms. Poonam was taken by the Respondent Nos.3 to 5 to their house. Apprehending that Ms. Poonam may be eliminated by her family members, the Petitioner has approached this Court.

3. When this petition came up for hearing first on 24th October, 2017, a status report was filed by the State in which it was stated that as per her Voter Identity Card, Ms. Poonam was 18 years old as on 1st January, 2016. Her statement was recorded by the police under Section 161 Cr PC. Her marriage certificate showed that she had been married to the Petitioner at the Arya Samaj Mandir, Bareilly, U.P on 3rd September, 2017. In her statement under Section 164 Cr PC recorded on 7th September 2017, Ms. Poonam stated that she wanted to live with the Petitioner. On 8th September 2017, when she was produced before the Child Welfare Committee ('CWC') at Kingsway Camp, Delhi, she was restored to her parents. Her ossification test done on 13th September, 2017 showed her age to be between 17 and 18 years. The status report stated that the Petitioner had not joined investigation.

4. The Court on 24th October, 2017 directed the State to produce Ms. Poonam before the Court on the next date i.e. 27th October, 2017.

5. On 27th October, 2017, Ms. Poonam was produced. She was asked whether she wished to live with the Petitioner, as stated by her earlier. However, she instructed the learned counsel for the State that she wished to live with her parents. She was now categorical that she did not want to live

with the Petitioner. The relevant portion of the order of that date reads as under:

“3. Today, Ms. Poonam has instructed to the counsel for the State to convey to the Court that she wishes to live with her parents. She is categorical that she does not want to join the Petitioner.

4. The case of the Petitioner, however, is that Ms Poonam is being detained by her parents against her wishes and under their threat and pressure, she is expressing her unwillingness to join the Petitioner.

5. From her demeanour in the Court, and the statement made by her through Counsel, it does not appear to the Court that Ms Poonam is under threat or influence in making the statement that she does not wish to live with the Petitioner.

6. The parents of Ms Poonam are present in the Court and identified by Inspector Narender Kumar, SHO PS Burari. Mr Rahul Mehra, learned Standing Counsel has explained to the parents of Ms Poonam that they should ensure the safety and security of their daughter Ms. Poonam. The parents of Ms. Poonam have given an assurance to the Court that they will ensure her safety and security and not get her forcibly married to anyone during the pendency of present proceedings.

7. Given the age of Ms. Poonam and the aforesaid developments, the Court considers it appropriate to retain the matter for some more time.

8. List this petition on December, 2017, on which date Ms Poonam and her parents, as well as the Petitioner, will remain present in person.

9. *Dasti* under the signatures of the Court Master.”

6. Today again, the Court has interacted with Poonam in the chamber separately. She is very categorical that she does not wish to live with the Petitioner and that she wishes to live with her parents only. The Court is

satisfied that she is not making the statement under any duress or coercion at this stage.

7. The Court separately interacted with the Petitioner as well and conveyed to him the stand of Poonam.

8. In that view of the matter, no further directions are required to be issued in this petition. It will be open to the Petitioner to seek other appropriate remedies that he may have in accordance with law.

9. The petition is disposed of.

10. *Dasti* under the signatures of Court Master to the parties.

S.MURALIDHAR, J.

I.S.MEHTA, J.

DECEMBER 15, 2017

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