

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1195 of 2018

Arising Out of PS. Case No.-255 Year-2017 Thana- GUTHNI District- Siwan

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Sunita Devi, Wife of Upendra Pandey, Resident of Village-Baheliya, P.S.-
Guthani, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar, Through The D. G. P., Government of Bihar, Patna.
2. The Superintendent of Police, Siwan.
3. The Officer-in-Charge, Guthani Police Station, Siwan.
4. The Superintendent, Rajkiya Uttar Raksha Grih, Gaighat, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Pandey, Advocate
For the Respondent/s : Ms. Prachi Pallavi, AC to AG

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date : 25-04-2018

This writ application has been filed in the nature of habeas corpus for release of daughter of the petitioner, namely, Nipu Kumari Pandey @ Priya Kumari from Rajkiya Uttar Raksha Grih, Gaighat, Patna.

It appears that Guthni P.S. Case No. 255 of 2017 was filed by the uncle of the victim Nipu Kumari Pandey for her kidnapping under Section 366 (A)/34 of the Indian Penal Code. The victim girl appeared before the Magistrate and her statement under Section 164 Cr.P.C. was recorded. The court assessed her age to be 15 years whereas the girl has disclosed her age to be 18 years before the Magistrate. The girl has stated



that on the threat given by her brother and uncle, she willingly escaped from her house and she claims to have married with one Jai Narayan Pandey on 19.11.2017. She has also stated in her statement that her family members were always torturing her. She has further stated that she is living with the aforesaid boy in Patna as husband and wife but they are constantly receiving threat from her family. Thereafter, on the basis of the educational certificate it appears that she was accepted as minor by the court concerned which is in seisin of the aforesaid matter i.e. Chief Judicial Magistrate, Siwan. On 27.03.2018 it appears that order for her release from the After Care Home in favour of her mother was passed. However from the further order dated 31.03.2018 it appears that the writ petitioner filed a petition for two purposes, for again passing an order for releasing the victim girl in favour of the writ petitioner (mother) with the help of special messenger and also for initiating a proceeding of contempt against the Superintendent of After Care Home. On that, a detailed order has been passed on 31.03.2018 and, since the victim girl was not willing to go with her mother because she had threat on her life by her family members and as the Superintendent of After Care Home could not release her on that day, the court has ordered that she will remain in After Care



Home itself and the petition filed by the petitioner was dismissed.

In place of challenging the aforesaid order, the petitioner has filed this writ application seeking writ of habeas corpus.

We are surprised how such type of confinement can at all be considered to be illegal confinement in the After Care Home when she is there under judicial order passed by the court of competent jurisdiction. Till that order is allowed, modified or set aside, the girl cannot be said to be in illegal confinement.

Accordingly we are of the view that this writ petition has no merit and same is required to be dismissed.

However, this order would not come in the way of the writ petitioner in taking any legal recourse against the order passed by the court below.

(Dr. Ravi Ranjan, J)

(S. Kumar, J)

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CAV DATE	
Uploading Date	
Transmission Date	

