

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.773 of 2018

Arising Out of PS. Case No.- Year- Thana- District- Vaishali

Nitin Kumar, son of Shree Lal Bahadur Singh, Resident of Village- Pakri New Tola Bhairapur, P.S.- Biddupur, District- Vaishali at Hajipur.

... .. Petitioner/s

Versus

1. The State of Bihar, through Director General of Police-cum-Inspector General of Police, Bihar, Patna.
2. Deputy Inspector General of Police, Muzaffarpur Range, Muzaffarpur.
3. Senior Superintendent of Police, Vaishali at Hazipur.
4. Deputy Superintendent of Police, Vaishali at Hazipur.
5. The Station House Officer, Biddupur, District- Vaishali at Hazipur.
6. Sri Mundrika Roy, son of Late Laxmi Roy, Resident of Village- Pakdi, P.S.- Biddupur, District- Vaishali.
7. Kiran Singh @ Kiran Kumari, Wife of Nitin Kumar Daughter of Sir Mundrika Roy, Resident of Pakdi, New Tola, Bhairapur, District Vaishali at Hazipur.
8. Miss Kavya Singh, Daughter of Nitin Kumar, aged about 10 month resident of Pakdi, New Tola, Bhairapur, District- Vaishali at Hazipur under guardianship of respondent no. 7 (mother)

... .. Respondent/s

Appearance :

For the Petitioner/s	:	M/s Deepak Kumar Singh and B.J.Jha, Advocates
For the State	:	Mr. P.N.Sharma, AC to AG
For the Respondent No. 6:	:	Mr. Mahendra Thakur, Advocate

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date : 06-07-2018

Heard parties.

It appears that in this matter a case and counter case is there and the police is investigating the same.

The writ petitioner claims that he had married the girl in the year 2014 and when he was taken in custody in connection



with a case under Excise Act, one of his friends had got the girl boarded in the Patna bound Rajdhani Express. In Patna, the father of the girl took her and since then she is missing.

The claim of the respondent no. 6 is that the girl was married to one Rajeev Kumar, Son of Nakeshwar Rai of village Nayagaon, 28 Tola, P.S. Desri, District Vaishali and the petitioner was not of the marriageable age at the time of the alleged marriage. There is no marriage certificate or any document of the temple showing the marriage between the two and, in fact, he has forcibly taken her away and hiding her somewhere.

In such a situation, in our view, since there is a case and counter case and the police is investigating the matter, this is not a fit case in which writ of *Habeas Corpus* can be issued as both sides are making allegation upon each other. Thus, this writ application is disposed of with a direction to the police to do proper investigation in the matter to find out the truth and take proper action thereafter.

However, it is made clear that if the writ petitioner or even the respondent no. 6 would not be satisfied with the investigation being done in the cases then they would be at liberty to approach the concerned Magistrate, who is in seisin in the matter, in view of the decisions of the Hon'ble Supreme Court



rendered in **Sakiri Vasu Versus State of Uttar Pradesh and others [(2008) 2 Supreme Court Cases 409]** and **Sudhir Bhaskarrao Tambe Versus Hemant Yashwant Dhage and others [(2016) 6 Supreme Court Cases 277]**.

(Dr. Ravi Ranjan, J)

(S. Kumar, J)

Spd/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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