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

+ **W.P.(CRL) 1360/2018**

MOHD SHAHID

..... Petitioner

Through: Mr. Shakil Akhtar, Advocate with
Petitioner in person.

versus

STATE OF NCT DELHI & ORS

..... Respondents

Through: Mr. Rahul Mehra, Standing Counsel
(Crl.) with Mr. Chaitanya Gosain,
Advocate for State.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE I.S. MEHTA

ORDER

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03.05.2018

CRL.M.A. 8270/2018

1. Application is allowed, subject to all just exceptions.

W.P.(CRL) 1360/2018

2. The Petitioner has approached this Court with this *habeas corpus* petition for directions to the Respondents to produce Respondent No.3, Israt, whom he claims to have married on 26th July 2017. Her brother has been impleaded as Respondent No.2. The allegation of the Petitioner is that Respondent No.3, after her marriage, has been coerced by Respondent No.2 not to join

the Petitioner.

3. The case of the Petitioner is that although, they have got married on 26th July 2017, both he and Respondent No.3 decided not to disclose this fact to their respective family members. It is further alleged that sometime around 21st April 2018, when Respondent No.3 disclosed the fact of the marriage to Respondent No.2, Respondent No.2 objected to it and then threatened the Petitioner with dire consequences if he persisted. According to the Petitioner, on 22nd April 2018, he disclosed to his parents about the marriage and they have agreed to it.

4. On receipt of advance copy of the petition, a status report dated 2nd May 2018 has been filed by the Station House Officer ('SHO'), Police Station ('PS') Malviya Nagar. In the status report, it is stated that Respondent No.3 was spoken to by the police. Her date of birth according to her is 24th March 2000. The Petitioner was known to her family and in fact remained at her brother's house earlier for about 2-2 ½ years at a time when her mother was still alive. Respondent No.3 told the police that she had never expressed any desire to marry the Petitioner; her signatures had been taken forcibly by the Petitioner after taking her away in a car. She denied having performed any *nikah* with the Petitioner.

5. Respondent Nos.2 and 3 are present in the Court. We have spoken to Respondent No.3 in the chamber. She has reiterated what she told the police. She is categorical that no valid *nikah* had been performed between her and the Petitioner and that she does not wish to go with the Petitioner. She maintained that she is at present staying with her brother and his family of

her own free will. She contended that the date of birth in her Aadhaar card, produced by the Petitioner, is erroneous.

6. We then called the Petitioner and his counsel in the chambers and conveyed to the Petitioner what Respondent No.3 had told us. He pointed out that her date of birth in the Aadhaar Card, submitted at the time of *nikah*, was 1st January 1998. However, as already noted, Respondent No.3 maintained that the Aadhaar card did not reflect her correct date of birth. The Petitioner denied that he had taken Respondent No. 3 away forcibly and go her to sign papers for the purpose of *nikahnama*.

7. This Court would not like to enter into this controversy at this stage because as far as the *habeas corpus* petition is concerned, the Court has to satisfy itself that the person whose production is sought by the Petitioner is not under any restraint and is not being detained by anyone against that person's wishes. In this case, the Court is satisfied that as of date, Respondent No.3 is living of her own free will with her brother (Respondent No.2) and is under no restraint or illegal detention. The Court accordingly is not inclined to issue any directions in this petition.

8. Counsel for the Petitioner expressed an apprehension regarding the safety of the Petitioner. It will be for the SHO of PS Malviya Nagar to make an assessment of any request that the Petitioner may make for protection and issue directions accordingly.

9. The petition is accordingly dismissed.

10. A copy of this order be given *dasti* under the signature of the Court Master.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MAY 03, 2018
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