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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P. (CRL). 1599/2018

Judgment reserved on 25th October, 2018
Judgment pronounced on 29th October, 2018

FARHANA

..... Petitioner

Through: Mr. M.M. Kashyap, Advocate
versus

STATE & ORS.

..... Respondents

Through: Mr. Rahul Mehra, Standing Counsel (Crl.)
with Mr. Chaitanya Gosain & Mr. Tushar
Sannu, Advocates for State with SI Rajender
Singh, DIU/N.B. Distt.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, J (Oral).

1. The present petition has been filed by the petitioner under Article 226 of the Constitution of India seeking issuance of a Writ of Habeas Corpus/ Direction against the respondents.
2. The brief facts which led to the filing of the present petition as per the petitioner are that the petitioner /Mrs. Farhana was married to one Fawaz as per muslim rites and customs on 26.10.2013 and out of the wedlock one girl child/Mannat was born on 15.01.2015. On 20.06.2017, the girl child was taken away by her father from her maternal residence and he kept the child in his illegal custody. The petitioner alleges that she was also not allowed to meet her daughter, on account of which, on 12.08.2017 a police complaint was lodged in PS Welcome Distt. Shahdara, Delhi. An application

under Section 12 of the Guardian and Wards Act, 1890 was filed by the petitioner in the Family Court seeking protection and custody of child, to which an order dated 20.02.2018 was passed whereby the respondent no. 3 to 7 was directed to hand over the custody of child to the petitioner in court on 01.03.2018 failing which coercive action would be taken against them but the said direction was not adhered to by the respondent no. 3 to 7.

3. On 01.03.2018, an order was passed by the Family Court issuing notice to the SHO, PS Welcome to search for the child and to produce the child in court on 12.03.2018. On 12.03.2018, a letter from the DCP was received in the court stating that the child was not traceable and the matter was further fixed for hearing 12.03.2018. On 12.03.2018, the child could not be produced in the court as she was still untraceable. Alternatively, the petitioner preferred the present writ petition of Habeas Corpus seeking direction to the SHO to trace the minor child and hand over the custody to the petitioner.
4. Mr. M.M. Kashyap, the learned counsel for the petitioner strenuously contended that the respondent No. 3 to 7 has illegally detained the minor child of the petitioner aged three years; that the petitioner was deliberately harassed by the husband and his family members and was coerced to bring dowry from her parents in order to get back the custody of the child; that the Family Court vide court order dated 20.02.2018 directed to hand over the custody of the child to the petitioner with the help of the police authority; that the SHO failed to take any action to enquire into the matter and the

petitioner fears that if no urgent action is taken, her husband in conspiracy with his family members might cause harm and injury to the child.

5. The perusal of the Status Report(s) dated 09.07.2018, 10.08.2018, 17.09.2018, 20.09.2018 and 25.10.2018 filed on behalf of the Delhi Police gives the details of the steps taken to trace the missing child. The Delhi Police flashed various wireless messages throughout the country, notifications were published in various National and Private Newspapers and an investigation team was also sent to trace the family of the husband of the petitioner, though it did not yield any result.
6. Mr. Mehra, learned Standing Counsel for the State had further submitted that the police is in constant search of the child and pointed out that 26 steps as per Standing Order 215 which are required to be taken by the police after receiving a complaint from an aggrieved person in such cases were duly undertaken. He further submits that the police shall keep searching for the child and efforts shall be made to trace her and undertakes to file Status Report after every six weeks in the GS No. 27/2017 pending before the Family Court.
7. Keeping in mind the entire scenario, this court understands the grief of the petitioner who has been separated from her minor daughter and failed to procure her custody despite the Family Court order dated 20.02.2018. The police has been constantly taking steps to trace the child, no further action is required.

8. In the present circumstances, no useful purpose would serve in keeping the present Habeas Corpus petition pending, moreso, the Delhi Police has undertaken to file Status Report after every six weeks in the GS No. 27/2017 pending before the Family Court.
9. The counsel for the petitioner also submits that he will take appropriate remedy before the Family Court and make efforts to get the order dated 20.02.2018 executed.
10. The present petition is disposed of with the abovesaid observations.

SANGITA DHINGRA SEHGAL,J

SIDDHARTH MRIDUL,J

OCTOBER 29, 2018//GR