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

+ **W.P.(CRL) 2133/2018**

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..... Petitioner

Through: Mr. Shailendra Singh, Ms. Gitanjali Malviya, Mr. Dayanand Sharma, Mr. Sana-ul-Haq, Mr. Purushendra Bhardwaj, Advs.

versus

THE STATE & ORS

..... Respondent

Through: Mr. Rahul Mehra, Standing Counsel for the State along with Mr. Chaitanya Gosain, Advocate.

CORAM:

**JUSTICE S. MURALIDHAR
JUSTICE VINOD GOEL**

**ORDER
19.07.2018**

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Crl.M.A. 27998-99/2018

1. Allowed, subject to all just exceptions.

W.P.(CRL) 2133/2018

2. The Petitioner has approached this Court in the present petition stating that the Respondents No.4 and 5, the father and mother of Kirti, to whom he is married, are unlawfully restraining her against her will. The prayer is that a direction should be issued for her production before the Court.

3. On receipt of advance notice, the SHO of PS Krishna Nagar has filed a status report. Therein, it is stated that Mr. Pawan Kumar (Respondent No.4) lodged a complaint against the Petitioner at PS Krishna Nagar regarding alleged kidnapping of his daughter, Kirti. Consequently, FIR No.66/2018 was registered under Section 363 IPC at the said PS.

4. It is further stated that on 5th May 2018, Kirti and the Petitioner were recovered from the house of the Petitioner at village Begumpur Shadi @ Rampur at District Bijnor, Uttar Pradesh. The statement of Kirti was recorded in the Court of the learned Metropolitan Magistrate under Section 164 Cr PC on 7th May 2018. In the said statement, which has also been enclosed in the present petition as Annexure P-6, Kirti *inter alia* stated that she and the Petitioner had run away to Delhi, got married in a temple and thereafter in the Court.

5. The status report notes that the Petitioner was arrested on 5th May 2018 and sent to judicial custody. He was then released on bail on 19th May 2018. It also notes that, from the school record, the date of birth of Kirti has been found to be 5th June 2001. At the time of registration of FIR, she was aged 16 years and 10 months. Section 366A has, therefore, been added in the aforementioned FIR No.66/2018.

6. It is stated that Kirti has since been handed over to her parents in accordance with the order dated 9th May 2018 of the Child Welfare Committee ('CWC'), Mayur Vihar, Delhi.

7. As far as the prayer in the present petition is concerned, it is stated that

the father of Kirti was contacted on 11th July 2018 and that he had stated that his daughter was happy to stay with them in their village.

8. Kirti and her father (Respondent No.4) are both present in Court today. Having spoken to Kirti in the judge's chamber in the presence of Mr. Rahul Mehra, learned senior standing counsel for the State, it appears that although she does not dispute that the Petitioner and she got married in a temple and thereafter had a registered marriage a Court, she states that this was done without her consent. She is conscious that she is below 18 years of age. She is categorical that she wishes to stay with her parents and not with the Petitioner.

9. In our conversation with Kirti, it transpired that her parents were looking to get her married sometime in the future. She was told that as she has admitted to having married the Petitioner, she would not be able to get married again unless the said marriage is dissolved. Furthermore, she was informed that she could not get married before attaining the age of 18 years.

10. Respondent No.4, Kirti's father, has also been apprised of the above legal position. He states that he is aware of it and will abide by the law and will only get Kirti married after she attains the age of 18 years and after the marriage with the Petitioner has been dissolved. Nevertheless, we direct that Respondent No.4 shall file an affidavit of undertaking in this Court in the above terms within the next two days.

11. Respondent No.4 will disclose to the SHO of PS Krishna Nagar his correct present address and mobile telephone number. The Court directs that

the SHO will periodically visit Respondent No.4 at his residence and ensure that his undertaking to this Court has not been breached. The beat staff in the area will also be briefed by the SHO in this regard.

12. If there is any difficulty in implementing any of the above directions, it would be open to the parties to seek further directions from this Court.

13. The petition is disposed of in the above terms.

S. MURALIDHAR, J.

VINOD GOEL, J.

JULY 19, 2018

“sandeep/dkb”