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

\+ **W.P.(CRL) 2314/2018**

AFSAR HUSAIN ..... Petitioner

Through: Mr. Ehtesham Hashmi & Mr. Akbar Siddiqui, Advocates

versus

STATE & ORS ..... Respondents

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

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VINOD GOEL

O R D E R

% **06.08.2018**

1. The Petitioner has approached this Court in this petition seeking issuance of a writ of habeas corpus for the production of his wife, Neefa. He states that they had got married on 18th May 2018 and thereafter, on 21st May 2018, he along with Neefa appeared before ASI Randhir of Police Station (PS) Dabri and intimated him about their marriage. Their statements were recorded wherein they both stated that the marriage had taken place of their own free will and that they were living together like husband and wife. Yet, she was taken away by the police and is now at Nirmal Chhaya against her wishes.

2. Pursuant to an advance copy of the petition being served upon him, the Station House officer (SHO) of PS Dabri, Inspector Vijay Pal, has filed a

status report dated 6th August 2018 in which *inter alia* it is stated that on 14th June 2018, pursuant to a complaint by Nasreen, the mother of Neefa, FIR No.307/18 was registered under Section 363 IPC. Nasreen had alleged that Neefa had been kidnapped on 21st May 2018 after having left to go to the beauty parlour where she was undergoing training. Nasreen suspected Afsar, the Petitioner herein, for the said offence.

3. Pursuant to the above complaint, Neefa appeared in PS Dabri along with Afsar at 6 pm on 19th June 2018. A statement under Section 161 Cr PC was recorded and her medical examination was conducted at DDU Hospital. The MLC of the said examination states that "as per patient she met her boyfriend on 21.05.2018 at 09.30 AM in Ghaziabad against her parents will. Both Neefa and her boyfriend Afsar Hussain got married on 21.05.2018 in Court. No H/O any physical/sexual assault. Not willing for any external/internal examination". Thereafter, Neefa was taken to Nirmal Chhaya.

4. On 21st June 2018, Neefa's statement was recorded under Section 164 Cr PC before the learned MM in which *inter alia* she stated that she did not want to stay with her father and brothers. During her counselling at Nirmal Chhaya, she reiterated her statement before the learned MM. Pursuant to the order of the Child Welfare Committee ('CWC'), a bone age test was carried out on 27th June 2018 which revealed Neefa's age to be between 17 and 19 years old. As per the school certificate, her date of birth is shown as 29th June 2002. However, the date of birth shown in her voter ID card is 1st January 1996. Subsequently, Neefa was restored to the custody of her

parents and is presently residing with them.

5. Another statement was made by Neefa before the police on 3rd August 2018 in which, *inter alia*, she alleged that she was forcibly taken away by the Petitioner and that the *nikaah* was performed against her will and he also established physical relations with her against her wishes.

6. In order to ascertain whether Neefa was under any undue pressure, we met her in the chamber in the presence of the learned counsel for the State. She has categorically stated to us that she does not wish to return to the Petitioner. She maintained that he had misled her and had taken her away from her place of work; that he had administered some intoxicating liquid to her due to which she became partly unconscious. In other words, she maintained the version of events as was narrated to the police by her on 3rd August 2018.

7. Learned counsel for the Petitioner pleaded before the Court that Neefa was under tremendous pressure from her family and that the Petitioner has sufficient material to show that she married him of her own free will.

8. The Court would not like to examine disputed questions of fact in the present petition. The Court has to essentially satisfy itself that Neefa is not being detained against her wishes. Having interacted with Neefa at sufficient length in the chamber, the Court is satisfied that she is at present residing with her parents of her own free will.

9. Consequently, the Court is not inclined to grant the relief sought by the

Petitioner in this writ petition. However, it will be open to the Petitioner to seek other remedies as may be available to him in accordance with law.

10. During her interaction with us, Neefa expressed an apprehension about the safety and security of herself and her family. The Court directs the SHO of PS Dabri to make an assessment of the security requirements of Neefa and her family and make appropriate arrangements based on such assessment.

11. The petition is dismissed with the above directions.

S. MURALIDHAR, J.

VINOD GOEL, J.

AUGUST 06, 2018
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