

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.916 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Patna

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1. Khusbu Kumari Wife of Ravi Kumar Daughter of Shailendra Kumar Sinha Resident of Tehsil Kotkasim, District-Alwar Presently R/o Shahjahanpur, District-Alwar, Rajasthan.
 2. Ravi Kumar Son of Late Om Prakash Resident of Tehsil Kotkasim, District-Alwar Presently R/o Shahjahanpur, District-Alwar, Rajasthan.

... .. Petitioner/s

Versus

1. The State of Bihar Through Secretary, Home Deptt., OLD Secretariat Bihar, Patna.
2. The Superintendent of Police, Alwar, Rajasthan
3. The Senior Superintendent of Police, Patna.
4. The Superintendent of Police Bihar Sharif, Nalanda, Bihar
5. The Superintendent of Police, Jehanabad, Bihar
6. The Officer in-charge, Chhabilapur, Police Station-Nalanda, Bihar
7. The Officer Incharge of Police Station Kako Jahanabad, Bihar
8. Renu Devi Wife of Deepak Mahto @ Deepu
9. Deepu Mahto @ Deepu Son of Ritlal Mahto
Both resident of Village-Nonihi, P.O.-Nonihi Math, P.S.-Kaku, District-Jahanabad (Bihar).
10. Sunita Devi Wife of Rajendra Mahto
11. Rajendra Mahto Son of Musafir Mahto
Both are resident of Village-Goyoror, P.S.-Chhabilapur, District-Nalanda (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Madan Mohan Prasad, Advocate
For the Respondent/s : Mr. P.N. Sharma, A.C. to A.G.

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 17-06-2019 This case has a peculiar background. The petitioners contend that out of their alleged wedlock, a child was born and



in order to give him social protection as there was a great resistance to the said marriage, the child was handed over to Renu Devi, the respondent No. 8.

The story takes a different turn thereafter inasmuch as the facts as disclosed indicate as if Sunita Devi was somehow or the other related to Renu Devi, but on the other hand, there is yet another version that the child was sold for certain amount to the respondent No. 10.

Before coming to this Court, the petitioners had filed a writ petition before the Rajasthan High Court that came to be dismissed on the ground of want territorial jurisdiction.

The question as to whether the child is of the petitioners, as to whether he became a victim of circumstances and also of the alleged transaction as alleged, we are of the opinion that the case being one of lawful custody, requires the leading of evidence for which the petitioners can always approach the appropriate forum under the Guardianship and Wards Act and in the event there are indications of any criminal offence, the petitioners can also lodge an F.I.R. or a criminal complaint, as the case may be. In the said complex situation of the matter, we do not find that, at this stage, this is an appropriate remedy as the fact of fixing the identity of the child



and then handing it over to the petitioners would require the leading of credible evidence.

Consequently, we consign this petition to records with liberty to the petitioners to approach the appropriate forum in accordance with law for claiming the custody of the child.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/-

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