

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.279 of 2019

Arising Out of PS. Case No.-212 Year-2018 Thana- District- East Champaran

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Pooja Devi, aged about 23 years, gender female, Wife of Rajesh Chaudhary
resident of Village -Mani Chhapra ward no.1 Bahuara, Police Station-
Chakiya, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home (Police) Department,
Government of Bihar, Patna.
2. The Inspector General of Police, Tirhut Zone, Muzaffarpur.
3. The Deputy Inspector General of police, Champaran Range, Motihari,
District- East Champaran.
4. The District magistrate, East Champaran at Motihari.
5. The Superintendent of Police, East Champaran at Motihari.
6. The Deputy Superintendent of Police (Headquarter), East Champaran at
Motihari.
7. The S.H.O. Chakiya Police Station, District- East Champaran.
8. Rajesh Chaudhary son of Late Ram Pukar Chaudhary, resident of Village-
Mani Chhapra Ward no. 1, Bahuara, Police Station-Chakiya, District-East
Champaran.
9. Suni Kumar, minor son of Rajesh Chaudhary
10. S. Kumar, minor son of Rajesh Choudhary
11. Ayush Kumar, minor son of Rajesh Choudhary

9 to 11 are under guardianship of their Parents and are illegal custody of their
father Rajesh Chaudhary, resident of Village- Mani Chhapra Ward no. 1,
Bahuara, Police Station-Chakiya, District-East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binay Kumar, Advocate
Mr. Vibhakar Kumar, Advocate

For the Respondent/s : Mr. Prabhu Narayan Sharma, AC to AG

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**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)**

Date : 04-02-2019

The allegation on the basis whereof this petition has been filed is that the petitioner is the mother of respondent nos.10 and 11 and she wants the custody of these children on the ground that respondent no.8 is unlawfully detaining them.

A counter affidavit has been filed on behalf of the State and there the story narrated is something otherwise. The allegation made in paragraph-5 of the affidavit indicates that there is material to demonstrate that the petitioner had fled away with one Suraj Sah and thereafter she lodged an FIR against him. Her first marriage with the respondent no.8 is admitted in paragraph-6 and also disclosing the children born from the said wedlock.

In the background that the petitioner is alleged to have fled away with a co-villager and has also instituted a criminal case, it would be unsafe to tread upon the issue of custody of these children and to release or to give custody to the petitioner for which it will be more appropriate that the petitioner approaches the concerned and competent Court for determining the guardianship of the said minor children under the Guardians and Wards Act.



We are, therefore, not inclined to entertain the petition.

It is open to the petitioner to seek such other remedies that may be available to her in law.

Dismissed with the said observations.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	05.02.2019
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