

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPHC No. 17 of 2019**

Ankit Kumar Jain S/o Parmeshwar Jain Aged About 30 Years R/o Ward No. 12, Main Road, Charama, Police Station - Charama, District North Bastar Kanker Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Home (Police) Department, Mantralaya, Atal Nagar, New Raipur Chhattisgarh.
2. The Superintendent Of Police North Bastar Kanker Chhattisgarh.
3. The Collector District North Bastar Kanker Chhattisgarh.
4. The Sub Divisional Magistrate Charama, District North Bastar Kanker Chhattisgarh.
5. Mohan Pandey Son Of Late Shri Amar Singh Pande, R/o Bazar Chowk, Vishrampuri, Police Station Vishrampuri, District Kondagaon Chhattisgarh.
6. Garima Pandey @ Gariam Jain D/o Shri Mohan Pandey Aged About 26 Years W/o Ankit Kumar Jain, R/o Bazar Chowk, Vishrampuri, District Kondagaon Chhattisgarh.

---- Respondents

For Petitioner	: None.
For Respondent/State	: Smt. Fouzia Mirza, Additional Advocate General.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Manindra Mohan Shrivastava, Judge****Order on Board****13/05/2019****Per P.R. Ramachandra Menon, Chief Justice**

1. The Petitioner has moved this Court for issuance of writ of habeas corpus for compelling the Respondents to produce the detenue (Respondent No.6) stated to be the wife of the Petitioner before this Court as she is allegedly under the illegal custody of the 5th Respondent.

2. The case projected in the writ petition is that the Petitioner has married the 6th Respondent, despite which she is being compelled and coerced by the members of the family to have remarriage with somebody else, detrimental to her right and interest. It is stated that such marriage is scheduled to be held on 14.05.2019. It is in the said circumstance, that the Petitioner has moved this Court seeking for the following prayers :-

“10.1 The Hon'ble Court may kindly be pleased to issue a writ in the nature of Habeas Corpus, command and direct therein to the respondents to produce respondent No.6 (wife of the petitioner) before this Hon'ble Court.

10.2 That, this Hon'ble Court may kindly be pleased to pass an order or issue a direction by which allow the petitioner to bring respondent No.6 with him.

10.3 Any other relief, which this Hon'ble Court may deem fit in favour of petitioner, may also be granted.”

3. When the matter came up for consideration before this Court on 10.05.2019, the following order was passed :-

“Shri Mukesh Shrivastava, Advocate for the petitioner.

Ms Fouzia Mirza, Addl. Advocate General for the State.

Heard.

In this habeas corpus petition the petitioner would allege that he is married with the respondent No.6 yet her uncle (respondent No.5 herein) has illegally detained her and is likely to marry her with some other boy, which is scheduled to be performed on 14th May, 2019.

Considering the peculiar facts and circumstances of the case, we direct the concerned Station House Officer to visit the residence of the respondent No.6 along with one lady Constable, both in plain clothes (not in uniform) and record her statement, which shall bear her signature along with photograph.

It is made clear that the statement of the respondent No.6 shall not be recorded in presence of the respondent No.5.

Depending upon what the respondent No.6 would state in the statement we shall further proceed with the matter on 13th May, 2019.

Post it on 13th May, 2019.”

4. Pursuant to the said order, learned Additional Advocate General submits, that the Station House Officer visited the residence of the 6th Respondent along with a lady constable in plain clothes (not in uniform) and recorded her statement as directed (not in presence of the 5th Respondent). An affidavit dated 13.05.2019 of the Station House Officer has been filed before this Court along with the statement of the 6th Respondent in Hindi also affixing her photograph, besides giving the verbatim translation in English. The learned Additional Advocate General submits that, according to the 6th Respondent, she has never married the Petitioner, nor has she expressed desire in this regard or given any consent.

5. It is further stated that the marriage of 6th Respondent scheduled to be held on 14th of this month is with full consent and knowledge of the 6th Respondent, whereas the attempt of the Petitioner is only to spoil the marriage, virtually filing a false complaint against the father of the 6th Respondent, also raising allegations against the near relatives.

6. There is no representation for the Petitioner.

7. It appears that the Petitioner has realized the true will expressed by the 6th Respondent by giving the statement recorded as per the direction of this Court passed on 10.05.2019.

8. Going by the materials on record, this Court is of the firm view that the 6th Respondent is never under the illegal custody of any of the Respondents. The Petitioner has failed to make out a case for intervention of this Court.

9. The writ petition fails. It is dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Manindra Mohan Shrivastava)
Judge