

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on 08.11.2019

Order Delivered on 15/11/2019

WPHC No. 24 of 2019

1. Suo Motu Taken WPHC Dtd 02/07/2019

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Department of Home, Mahanadi Bhawan, Mantralaya Atal Nagar Naya Raipur, District Raipur (CG)
2. The Director General of Police Chhattisgarh, Police Head Quarter, Raipur, District Raipur (CG)
3. The Inspector General of Police, Raipur Range, O/o The Inspector General of Police, District Raipur (CG)
4. The Superintendent of Police, Dhamtari, District Dhamtari (CG)
5. The Station House Officer, Police Station City Kotwali, District Dhamtari (CG)
6. Mohd. Ibrahim Siddiqui, also known as 'Aryan Arya', through Mohd. Hanif Siddiqui, Ratna Bandha, Ward No.18, Dhamtari (CG)

---- Respondents

WPCR No. 69 of 2019

1. Ashok Kumar Jain S/o Shri G.C. Jain (Parekh), aged about 56 years, R/o House No.3, Mahalaxmi Enclave, Sihava Road, Dhamtari (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Secretary, Department of Home, Mahanadi Bhawan- Mantralaya, Atal Nagar- Naya Raipur (CG)
2. Collector, District - Dhamtari, At O/o the Collector- Dhamtari, Collectorate, Dhamtari (CG)
3. Superintendent of Police, District-Dhamtari, At O/o the Superintendent of Police- Dhamtari.
4. Mohd. Ibrahim Siddiqui, also known as Aryan Arya, S/o Mohd. Hanif Siddiqui aged about 32 years, R/o Ratna Bandha, Ward No.18, Dhamtari, District- Dhamtari (CG)

---- Respondents

WPCR No. 271 of 2019

1. Ashok Kumar Jain (Parekh), S/o Late Shri Gehwar Chand Jain, aged about 55 years, residence of Motor Stand Ward, PS City Kotwali, Dhamtari, District Dhamtari (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh, Through District Magistrate, Dhamtari, District Dhamtari (Chhattisgarh)
2. Superintendent of Police, Dhamtari, District-Dhamtari.
3. Station House Officer, P.S. City Kotwali, District Dhamtari (CG)

---- Respondents**WP(227) No. 379 of 2019**

1. Ashok Kumar Jain (Parekh), S/o Late Shri Gehwar Chand Jain, aged about 55 years, residence of Motor Stand Ward, PS City Kotwali, Dhamtari, District Dhamtari (CG) (Petitioner is not a party in the family court, but being a legal guardian/father of Ku. Anjali Jain who is arrayed as a non-applicant in the family court. Hence he filed the present petition)

---- Petitioner**Versus**

1. Presiding Officer, First Additional Principle Judge, Family Court, Raipur, District Raipur (Chhattisgarh)
2. Station House Officer, P.S. City Kotwali, District Dhamtari (CG)
3. Mohd. Ibrahim Siddiqui, aged about 32 years, S/o Mohd. Hanif Siddiqui, residence of Ratna Bandha, Durg Road, Dak Bangala, Ward No.18, Dhamtari, PS Kotwali, District- Dhamtari (CG) Pin 493773 (Applicant in family court)
4. Smt.Anjali Arya (Jain), aged about 23 years, W/o Shri Ibrahim Siddique @ Aryan Arya, D/o Shri Ashok Kumar Jain, residence of Sinhava Road, Oshiya Bihar Ward No.9, Dhamtari, P.S. and District Dhamtari (CG)

---- Respondents**WPHC No.24/2019**

For Petitioner	:	Suo Motu
For Respondent No.1 to 5	:	Shri G.Tiwari, Dy. Govt.Advocate
For Respondent No.6	:	Shri Prakash Tiwari, Advocate.

WPCR No.69/2019

For Petitioner : Shri Prakash Tiwari, Advocate
 For Respondent No.1 to 3 : Shri G.Tiwari, Dy. Govt.Advocate
 For Respondent No.4 : Shri Kishore Bhaduri & Shri
 Sabyasachi Bhaduri, Advocate.

WPCR No.271/2019

For Petitioner : Shri Prakash Tiwari, Advocate
 For Respondent No.1 to 3 : Shri G.Tiwari, Dy. Govt.Advocate

WP(2227) No.379/2019

For Petitioner : Shri Prakash Tiwari, Advocate
 For Respondent No.2 : Shri G.Tiwari, Dy. Govt.Advocate
 For Respondent No.3 & 4 : Shri Kishore Bhaduri & Shri
 Sabyasachi Bhaduri, Advocate.

Hon'ble Shri P. R. Ramchandra Menon, CJ

Hon'ble Shri Parth Prateem Sahu, J

CAV Order**Per Parth Prateem Sahu, J**

1. WPHC No.24/19 has been registered as *suo motu* writ petition on the basis of letter dated 20.6.2019 sent by younger sister of detenue Anjali Jain. After suo motu registration of petition, this Court vide order dated 10.7.2019 directed for production of the detenue before this Court on 22.7.2019. On 22.7.2019 the detenue was produced before this Court and along with detenue, Shri KP Chandel, Additional Superintendent of Police, Shri Pankaj Patel, Deputy Superintendent of Police, Shri Pranaly Vaidya, TI, Shri Bhavesh Shendey, SI, Ms. Shanta Lakra SI, Shri Devram Sinha, ASI, Shri Rajkumar Shukla, Constable, Miss Tanya Kanwar, Lady Constable, Dr. Neeti Singh, Ms. Neetu Pandey & Smt. Usha Thakur, authorities from Sakhi One Stop Centre, Raipur were also present.

2. Prior to registration of suo motu writ petition under the head

'WPHC', the dispute between the parties was travelled upto Hon'ble Supreme Court and in one of the orders passed on 30.5.2019 in SLP (Civil) Diary No.19517/2019, Hon'ble Supreme Court observed that the High Court could call the detenue (petitioner therein) and to have an interaction to assert the true facts.

3. Taking into consideration the dispute between the detenue, her husband and parents and also pendency of other cases before this Court, we deemed it proper to have an interaction with the detenue in Chamber. On 22.7.2019 after detailed interaction with the detenue in the Chamber, we found that the detenue was capable of understanding the pros & cons of the questions we put to her when she replied the same in a very confident and firm manner and we did not find anything adverse, as stated by her parents. The outcome of our interaction with her was recorded in our order dated 22/7/2019, relevant part of which is extracted for easy reference;

“Looking to the statement made by the detenue that she wants to go with Respondent No. 6, which appears to have been given with her free will before us in the chamber as well as before the Court proceedings as also looking to her age, no direction can be given against her will. As the Respondent No. 6 is behind the bars and looking to the security and safety of the detenue, we do not feel it proper to send the detenue anywhere else but as per her will as she has narrated before the Court that she wants to go with the Respondent No. 6.

When the detenue has been informed that the Respondent No. 6 is behind the bars in a criminal case, she, in alternative has stated that she wants to go with her in-laws.

We are not inclined to accept her will at present for the reason that the parents of Respondent No. 6/in-laws of detenue have not moved any application before this Court even when they are present in the Court today alongwith an Advocate appearing for the Respondent No. 6. Even they have not filed any affidavit or application for taking the detenue with them and providing her security and freedom.

In view of the aforementioned facts and circumstances of the case, we direct the State authorities to send the detenue to the Sakhi One Stop Centre, Raipur until further orders of this Court. We also direct that the detenue shall be given all the freedom with which she wants to live therein including access to phone calls available at the centre.”

4. On 29.8.2019 learned counsel appearing on behalf of the parents of detenue brought to the notice of this Court that they have already moved the Apex Court against the order dated 22.7.2019 by filing SLP (Criminal) Diary No.28201/2019 and the same was listed for consideration on 02.09.2019. Accordingly, the matter was adjourned for 11.9.2019, on which date the matter was again adjourned for a week awaiting fate of the proceeding pending before the Supreme Court. Thereafter the matter was adjourned from time to time. When the case was taken up on 23.10.2019, learned counsel appearing for the detenue informed this Court with regard to ill-treatment meted out to detenue at the hands of the staff of Sakhi One Stop

Centre, Raipur.

5. The detenue is a major girl of about 23 years of age and thus she is having absolute liberty and right to have her own choice with respect to her life.
6. On interaction with the detenue as above, we find that she appears to be of stable mind and during interaction, she clearly expressed her desire and wish to live with her husband i.e. respondent No.6 herein. However, since on the said date her husband was in custody in connection with the offence registered against him on the basis of complaint lodged by her parents against him, we thought it proper to keep the detenue at Sakhi One Stop Centre, Raipur until further orders. Now it has been brought to the notice of this Court that respondent No.6 has been released on bail.
7. Taking into consideration the overall facts and circumstances of the case, nature of proceedings under consideration before this Court i.e. Writ Petition (Habeas Corpus), and also the letters written by the detenue directly to Hon'ble the Chief Justice and the Registrar General of the High Court, we deem it fit and proper to direct the authorities of Sakhi One Stop Centre, Raipur to set the detenue at liberty to live with the person of her choice at any place of her choice. Looking to the dispute projected before us by the parties, we direct that the detenue shall be released in presence of the Superintendent of Police, District Raipur and high-ranking officials of the Sakhi One Stop

Centre, Raipur. Date and time of release of detainee shall be informed 24 hours in advance on mobile phone of Ashok Kumar Jain, father of detainee, as well as Mohammed Ibrahim @ Aryan Aryan or by other admissible mode.

8. With the aforesaid directions, WPHC No.24/2019 stands disposed off.
9. WPCR Nos.69/19 & 269/19 and WP (227) No.379/2019 are released and directed to be listed for consideration before the Bench having roster.

Sd/-

(P.R. Ramchandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

roshan/-