

#14

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered on : 21.11.2019

W.P.(CRL) 3257/2019

RAKHI

.... Petitioner

versus

STATE NCT OF DELHI & ANR

.... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Kaushal Yadav, Mr. Nandlal Kumar Mishra and Ms. Yashoda Katiyar, Advocates.

For the Respondents : Mr. Rahul Mehra, Standing Counsel (Criminal) with Mr. Chaitanya Gosain, Advocate for GNCTD with Insp. Prashant Deshpal, PS-Seemapuri.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE I.S. MEHTA

J U D G M E N T

SIDDHARTH MRIDUL, J (OPEN COURT).

CRL.M.A. 40749/2019 (for exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(CRL) 3257/2019

3. The present petition essentially seeks a direction to the official respondents to produce before this Court, namely, Mr. Dilip Kumar, the estranged husband of the petitioner – Rakhi.

4. The Petitioner states that, she and Mr.Dilip Kumar purportedly got married of their own free will and volition, as per the Hindu rites on 26th July, 2015, although no material in this behalf has been placed on record.

5. It is the petitioner's case that on 22nd August, 2015, the parents of Mr. Dilip Kumar took him away ostensibly to attend a family wedding.

6. It is the petitioner's assertion that despite repeated attempts she has been unable to establish contact with Mr.Dilip Kumar, since then.

7. It is an admitted position that the petitioner made a written complaint to the SHO, PS-Seemapuri, against Mr. Dilip Kumar's parents alleging his illegal confinement on 11th September, 2015.

8. It is further an admitted position that vide a status report filed by the ACP, Sub-Division, Seemapuri, in the criminal complaint filed by the petitioner before the Court of Sh. Achal Tyagi, MM, District Court Complex, Karkardooma Court, Delhi, it was stated that Mr. Dilip Kumar could not be traced, despite repeated attempts.

9. The petitioner upon receiving the said status report made another written complaint to the Assistant Commissioner of Police in Police Station – Seemapuri stating that, the I.O. of the present case has not made any efforts to search for Mr. Dilip Kumar nor has attempted to reach him at the address provided by the petitioner.

10. The petitioner admittedly has in the month of February, 2016, filed a complaint against Mr. Dilip Kumar and his parents under

Section 498 A, Indian Penal Code, Act of 1860, alleging that she was subjected to cruelty and harassment for dowry, before the Assistant Commissioner of Police, CAW Cell, Police Station-Seemapuri, New Delhi. Thereafter on 22nd February, 2016; the petitioner has filed a further criminal complaint under Section 200 Cr.P.C. together with an application under Section 156 (3) Cr.P.C, in the Court of learned CMM, Karkardooma Court, New Delhi, for registration of FIR against her in-laws for harassment and cruelty.

11. The petitioner has furthermore filed a maintenance petition under Section 125 Cr.P.C, on the 23rd February, 2016, in the Court the learned Principal Judge, Family Court, Karkardooma Court; which has been proceeded *ex parte* due to the non appearance of Mr. Dilip Kumar, despite service of notice, on 19th December, 2016.

12. It is lastly alleged on behalf of the petitioner that she has recently come to know that Mr. Dilip Kumar has performed a second marriage.

13. The petitioner had earlier instituted W.P.(CRL) 2912/2019 seeking similar relief, which was dismissed as withdrawn by this Court on 15th October, 2019 with the following order:

“CRL.M.A. 38164/2019

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(CRL) 2912/2019

After some arguments, learned counsel appearing on behalf of the petitioner seeks leave to withdraw this petition with liberty to file a proper petition with further and better particulars. Leave and liberty granted.

The petition is dismissed as withdrawn and disposed of accordingly.”

14. A status report dated 20th November, 2019, authored by Inspector Harish Kumar, SHO/PS-Seemapuri, Delhi has been handed over in Court today and the same is taken on record.

15. A perusal of the status report reflects that, pursuant to the missing person report dated 25th December, 2015 received from Sh. Vindhyachal Prasad, the father of Mr. Dilip Kumar, R/o E-59/334, Kalander Colony, Dilshad Garden, Delhi, lodged vide DD No. 13 A at Police Station-Seemapuri, an enquiry was conducted and efforts were made to trace the latter, but in vain. On 19th November, 2019, Sh. Vindhyachal Prasad was interviewed by the I.O. and stated that the petitioner had solemnized marriage with his son by inducing him and that the latter started living at the parental home of the petitioner, thereafter.

16. Mr. Vindhyachal Prasad further stated that he had disowned his son from all of his movable and immovable assets, at that stage. It was further stated by Mr. Vindhyachal Prasad that, Mr. Dilip Kumar had gone missing from the house of the petitioner. It was lastly stated by Mr. Vindhyachal Prasad that he had been informed by his relatives that Mr. Dilip Kumar seems to be working and living in Kathmandu, Nepal.

17. A perusal of the foregoing, leads to but one inescapable conclusion that disputes have arisen between the petitioner on the one hand and her husband Mr. Dilip Kumar and his parents on the other,

subsequent upon the solemnization of the purported love marriage between the estranged couple. It is further an admitted position that numerous proceedings instituted on behalf of the petitioner are pending adjudication before Courts of competent jurisdiction.

18. In this view of the matter, we are of the considered view that this is not a fit case for the exercise of the extraordinary habeas corpus writ jurisdiction of this Court.

19. The petition being devoid of merit is accordingly dismissed, leaving the petitioner to institute and prosecute appropriate proceeding/applications, as may be available to her, in accordance with law, before the Court of competent jurisdiction.

SIDDHARTH MRIDUL
(JUDGE)

I.S. MEHTA
(JUDGE)

NOVEMBER 21, 2019
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