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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 1879/2019 & CRL.M.A. 30835/2019

MONU RAJPUT

..... Petitioner

Through: Mr. Amritananda Chakravorty, Advocate
with Mr. Mihir Samson, Ms. Shreya
Munoth and Mr. Pradip K. Singh,
Advocates.

versus

STATE & ORS.

..... Respondents

Through: Mr. Rahul Mehra, Advocate with
Mr. Chaitanya Gosain, Advocate for
State with Insp. Sushma Saxena,
PS Mehrauli, ASI Lalit Kumar,

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Date of Decision: 12th July, 2019

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

J U D G M E N T

MANMOHAN, J: (Oral)

1. In the present petition for writ of habeas corpus it is averred that the petitioner, who was assigned a female gender by birth, is now a transgender male and is a close friend of Ms. Manish @ Neeshu, presently 20 years of age. It is alleged that Ms. Manish @ Neeshu has been illegally detained against her will by or under the instructions of respondents No.4 and 5, her Chacha and Bua respectively since 07th July, 2019.

2. It is further averred in the petition that the petitioner and Ms. Manish @ Neeshu entered into a romantic relationship in January, 2019 and they had resided together between 29th June, 2019 and 06th July, 2019 within the jurisdiction of this Court.
3. Learned counsel for petitioner states that the Haryana Police has forcibly sent Ms. Manish @ Neeshu along with her aunt against her wishes and express statements.
4. Mr. Rahul Mehra, learned Standing counsel for Delhi Government, who appears on advance notice, has handed over a status report in which it is averred as under:-

“Brief facts of the matter are that on 7.7.2019, at 10.14 A.M., a PCR call vide D.D. No.35-A was received in Police Station Mehrauli regarding a quarrel, the same is being reproduced, “Ref. CPCR DD No.-07 Jul 191650077, Incident Address: BABR BUILDING KHUSHI APARTMENT MEHRAULI VILLAGE, Incident Description: LADY CALLER POLICE DEPTMENT KI HE USKE SATH QRL HE NEED LADIES POLICE, Mobile No.917015356457, From: KM. NEELAM 28185664”. The same was registered in CCTNS and was marked to HC Sanjay No.598/SD who was informed telephonically about the said call for taking necessary action.

On reaching at the spot, HC Sanjay found out that on ASI Lalit Kumar No.110/Hansi, P.S. City Hansi, Haryana (9416645191) along with accompanied staff namely SPO L/C Anju No.553/Hansi, SPO Krishan No.10/Hansi and couple of civilians who had also accompanied the above staff were present at the above address and had come there for investigation of Case FIR No.404/19 dated 30.6.2019 u/s 346 IPC, P.S. Hansi City. The said FIR was got lodged by one Ashok s/o Surja r/o Jagdish Colony, Hansi City, Hansi in which he had reported that his daughter Manisha aged 19 Years had left the house at 10A.M. on 29.6.2019 on the pretext of going to

his mother's house but she didn't reach there, hence the above FIR was lodged in P.S. Hansi City and during investigation, the above mentioned police personnel had come to the above address in search of the above mentioned girl Manisha. ASI Lalit Kumar was asked to first lodge a D.D entry of their arrival in Police Station, Mehrauli. The same was got done at 11.46 A.M vide D.D. No.46-A. The girl Manisha was found residing at the above address with two other friends namely Prince and Monu, the petitioner and was recovered by the staff of P.S. Hansi City.

Staff of P.S. Hansi City, Hansi brought the above mentioned girl to Police Station, Mehrauli and from there, they proceeded to their concerned police station i.e. Hansi City. A D.D. entry no.18-B at 1 P.M. was also lodged regarding their departure. HC Sanjay while reporting back vide D.D No.59-A from various calls assigned to him had also mentioned the above mentioned facts.

Allegations of coercing the girl to go with her parents or beating her in police station are absolutely false and frivolous. All this while she remained in custody of woman officer of Hansi Police and they were the one who had recovered her during investigation of their case FIR No.404/19 u/s 346 IPC, P.S. Hansi City, Hansi (Haryana).

Further, the concerned I.O., ASI Lalit Kumar as well as the I/C of concerned Police Post, Hansi, Haryana have been informed regarding the writ petition on his mobile no.9416645191."

(emphasis supplied)

5. He has also handed over a photocopy of the statement made under Oath by Ms. Manish @ Neeshu under Section 164 Cr.P.C. before the Court of Smt. Nisha, JMIC, Hansi. The said statement is reproduced hereinbelow:-

"Statement of Manisha, Age 20 years, D/o Ashok, R/o Jagdish Colony, Hansi Under Section 164 Cr.P.C.

On SA

Question: What is your Name?

Ans. Manisha

Question: What do you want to say?

Ans. On 29.06.2019, I had left home and had gone to Delhi with my friend Varsha without telling anyone. I had gone out of my own volition. None had forced me.

Question: Do you wish to say anything else?

Ans. I do not wish to stay with my paternal aunt and paternal grandmother. I wish to stay with my parents. My paternal uncle beats me. Paternal aunt hurls choicest abuses at me. Therefore, I wish to go with my parents.

Sd/-(Nisha)

(In English)

RO&AC

I have explained to her about my identity and asked her to state freely what she wants. I am of the view that statement is voluntarily given without any pressure.

Sd/-(Nisha)

(In English)

Dated:07.07.2019

Time: 09:30 PM”

(emphasis supplied)

6. He states that in pursuance to the aforesaid statement, Ms. Manish @ Neeshu is now residing with her parents in Haryana.

7. Since Ms. Manish @ Neeshu has been released to her parents, and not to respondents No.4 and 5 as averred by the petitioner, in pursuance to a judicial proceeding pending in Haryana, this Court cannot presume or assume that she is in illegal detention. In the event, the present petition is entertained, it would amount to casting doubts on the judicial

proceedings in a Court over which this High Court has no jurisdiction.

8. In the event, the petitioner is of the view that proper procedure has not been followed by Haryana Police in Delhi, the petitioner is at liberty to file appropriate proceedings in accordance with law.

9. Consequently, as Ms. Manish @ Neeshu has been released in pursuance to a statement made under Section 164 Cr.P.C. and that too by a Court outside the territorial jurisdiction of this High Court, it would not be appropriate to entertain the present writ petition.

10. With the aforesaid liberty, present writ petition and application stand disposed of.

Order dasti.

MANMOHAN, J

SANGITA DHINGRA SEHGAL, J

JULY 12, 2019

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