

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.222 of 2020

Arising Out of PS. Case No.- Year-0 Thana- District-

SARITA aged about 32 years, Female, Wife of Siddharth Kumar Mishra,
Resident of Village- Anandpuri Belbanwa, P.S. - Town Motihari, District-
East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna.
2. The Inspector General of Police, Central Range, Patna.
3. The Superintendent of Police, East Champaran.
4. The Superintendent of Police, West Champaran.
5. The Officer-in-Charge, Town Motihari Police Station, District- East Champaran.
6. The Office-in-Charge of Shikarpur Police Station, District- East Champaran.
7. Siddharth Kumar Mishra aged about 38 years, Male, Son of Safal Kumar Mishra, Resident of Village- Yasoudha Lok, P.S.- Shikarpur, Dist.- West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shekhar Singh, Mr. Satyendra Rai, Advocates
For Respondent		
Nos. 1 to 4	:	Mr. S. D. Sanjay (ADSG)
For the University 5 to 7 :		Mr. Yugal Kishore, Sr. Advocate Mr. Ugranath Mallik, Advocate

For the Respondent No. 8:	Mr. Bipin Kumar Sinha, Advocate
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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 03-03-2020 The petition filed on 22.02.2020 is listed for hearing
for the first time today before the Court.

Petitioner has prayed for following relief:-

“For issuance of an appropriate writ, order or



direction in the nature of habeas corpus commanding the respondent no. 7 (father) to produce the body of petitioner's son namely Samrit Kumar who is about 4 years old before this Hon'ble Court and further be pleased to grant the custody of minor to the petitioner for the interest and paramount welfare of the child."

The dispute is *inter se* the husband and wife, i.e., petitioner and respondent no. 7, namely, Siddharth Kumar Mishra.

The petitioner alleges that the dispute, matrimonial in nature, is *inter se* the husband and wife and, as a result whereof, perhaps, the minor child born out of the wedlock is suffering, whereas, the wife wants the custody of the child which is at present with respondent no. 7.

In the nature of the instant proceeding, i.e., writ of habeas corpus, the issue of custody and visitation right cannot be settled for there is specific Statute and mechanism provided under law. The minor, aged 4 years, is living with his father. In the petition, there is no allegation, whatsoever, that the child is being mal-treated; that his upbringing in any manner is detrimental to his life.

Needless to add, paramount consideration in relation to custody is welfare of the child and not whims and fancies or



the desires or wishes.

As such, we dispose of the present petition, reserving liberty to the writ petitioner to take recourse to such remedy as are otherwise available under law. We are hopeful that as and when such step is initiated by the petitioner, the adjudicating authority shall, depending on the attending facts and circumstances, decide the application of the petitioner in accordance with law.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ranjeet/-

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