

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.56 of 2020

Arising Out of PS. Case No.-1314 Year-2019 Thana- PATNA COMPLAINT CASE District-
Patna

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RUBY DEVI, Wife of Mukesh Kumar Singh R/O - In the house of Anil Kumar, Railway Colony, Station Road, Fatuha, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police (D.G.P.), Bihar
3. The Senior Superintendent of Police (S.S.P.), Patna Bihar
4. The Officer-in-Charge (S.H.O.), Fatuha Police Station, Patna Bihar
5. Mukesh Kumar Singh Son of Kapildeo Singh R/O - In the House of Anil Kumar, Railway Colony, Station Road, Fatuha, P.S.- Fatuha, District- Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ravi Kumar, Adv. Mr. Rajiv Ranjan Singh, Adv. Ms. Priya Chaubey, Adv.
For the Respondent/s	:	Mr. Lalit Kishore (Ld. A.G.)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 25-02-2020 Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner has prayed for the following relief(s):

- (i) To forthwith direct the respondent State to immediately recover the following four minor children of the petitioner who has been forcibly taken away by the husband of the petitioner along with some 3-4 unknown persons on 18.09.2019 at about 10:00 P.M. and all the minor children are still traceless. Those traceless minor children are-



- (a) Krish Kumar, aged about 8 years,
 - (b) Mausam Kumar, aged about 5 years,
 - (c) Mansoon Kumar, aged about 4 years,
 - (d) Yashraj Kumar, aged about 3 years.
- (ii) To complete the investigation in connection with complaint Case No. 1314©/2019 filed in the court of the learned Additional Chief Judicial Magistrate-1st, Patna City after hearing directed Fatuha Police Station to institute an FIR and submit report under Section 156(3) of the Code of Criminal Procedure. However, till date no action has been taken by the respondent State even after repeated reminders.”

The dispute, matrimonial in nature, *inter se* the petitioner/wife and respondent no. 5/husband, in which unfortunately, the fate of the children, born out of the wedlock, is sought to be adjudicated by way of the instant petition, in the nature of *habeas corpus*.

We notice that the petitioner has already lodged a complaint with the concerned Police Station and pursuant thereto, an FIR already stands registered.

From the record, it cannot be inferred that there is immediate threat to life of the four minor children, born out of the wedlock, the apprehension orally expressed is not based on any cogent materials.

We notice that the petitioner also has remedy under



the provisions of the Guardian and Wards Act and not by way of the instant petition, for the custody of the children with the father, be it for whatever means and to the dislike of the wife, cannot be said to be illegal.

As such, we dispose off the present petition reserving liberty to the writ petitioner/wife to take recourse to such remedies as are otherwise available in accordance with law.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

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