

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.3189 of 2018

Arising Out of PS. Case No.- Year-1111 Thana- District-

Pranbendra Narayan, son of late Shailendra Narayan, resident of village- Dadpatti, P.S. Sakatpur, District- Darbhanga.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary Home Department, Government of Bihar.
2. The Director General of Police, Government of Bihar.
3. The Superintendent of Police, Darbhanga.
4. The Officer-in-charge, Laheria Sarai (Benta), District- Darbhanga.
5. Shruti Kumari D/o Krishan Chandra Khan resident of village Mushharia, P.S. Jamalpur, District- Darbhanga, at present Mohalla Shahganj, P.S. Benta, Laheria Sarai (near Railway Gumti No.22), Darbhanga.
6. Krishna Chandra Khan son of not known, resident of village- Mushariya, P.S. Jamalpur, District- Darbhanga, at present Muhalla Shahganj, P.S. Benta, District- Darbhanga.
7. Babita Devi wife of Krishan Chandra Khan, resident of village Mushariya, P.S. Jamalpur, District – Darbhanga at present Muhalla- Shahganj, P.S. Benta, District- Darbhanga.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Kaushal Kumar Jha, Advocate
For the Respondents	:	Mr. Prabhu Narayan Sharma AC to AG.
For the Respondent Nos. 5 to 7	:	Mr. Sada Nand Roy, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 02-09-2021

The instant writ application has been filed by the petitioner, in the nature of *habeas corpus*, for commanding the Respondent Nos. 6 and 7 to produce Respondent No.5, who has been detained by them, before the Court and set her at liberty.

2. The contention of the petitioner is that Respondent No.5 is his legally wedded wife. She is 28 years old and her



parents (Respondent No. 6 & 7) have illegally detained her. They are not allowing her to come to the house of the petitioner.

3. Upon notice, Respondent Nos. 5 to 7 have entered into appearance through their counsel Mr. Sada Nand Roy.

4. A counter affidavit duly sworn by the Respondent No.5 has been filed on their behalf. In the counter affidavit, it has categorically been stated that the Respondent No.5 is not willing to live with the petitioner due to his ill behaviour and bad manners. It has been contended that at the time of marriage, the petitioner had fraudulently made several false promises. It is also contended that out of her own choice, the Respondent No. 5 is not inclined to live with the petitioner and no force or pressure has been applied upon her.

5. A rejoinder to the counter affidavit has been filed on behalf of the petitioner wherein the pleadings made in the writ petition have been reiterated.

6. Mr. Sada Nand Roy, learned counsel for the Respondent Nos. 5 to 7 contended that since the Respondent No.5 is not in illegal detention. She being a major lady is free to live at the place of her choice. The petitioner cannot compel her to live together with him. He further contended that instant *Habeas Corpus* writ petition is not maintainable. He contended



that the only remedy available to the petitioner is by way of filing an application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights.

7. We find force in the submissions of learned counsel for the Respondent Nos. 5 to 7. Apparently, the Respondent No.5 is not in illegal detention. In absence of there being any evidence of illegal detention of the Respondent No.5, the instant application, in the nature of a writ of *Habeas Corpus*, is not maintainable.

8. It is, accordingly, dismissed.

(Ashwani Kumar Singh, J)

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
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