

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.105 of 2020

Arising Out of PS. Case No.-460 Year-2019 Thana- MAHUA District- Vaishali

Devendra Paswan, Son of Anandi Paswan, Resident of Village - Fular, P.S. - Mahua, District - Hajipur at Vaishali, Bihar.

... .. Petitioner

Versus

1. The State of Bihar through the D.G.P, Bihar, Patna.
2. The Senior Superintendent of Police, Hajipur at Vaishali, Bihar.
3. The SDO, East, Hajipur at Vaishali, Bihar.
4. The Dy. S.P, East, Hajipur at Vaishali, Bihar.
5. The Police Inspector, Mahua Police Station, Hajipur at Vaishali, Bihar.
6. The officer-In-charge/Station House Officer, Mahua Police Station, Hajipur at Vaishali, Bihar.
7. Shiva Devi, Wife of Dashrath Shah, Resident of Village - Kathara, P.S. - Kathara (O.P.), Hajipur at Vaishali, Bihar.
8. Deepak Kumar Shah, Son of RamIqbal Shah, Resident of Village - Mahamadabad Alawalpur, P.S.- Sarai, District - Vaishali, Bihar.
9. Priya Rani, Wife of Rahul Kumar and daughter of Dashrath Shah, Presently Resident of Village - Kathara, P.S. - Goraul Kathara (O.P.), District - Hajipur at Vaishali, Bihar.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Ravi Nandan, Advocate Mr. Sanjay Kumar Singh, Advocate
For the Respondent Nos.7 & 8:	:	Mr. Rajesh Kumar, Advocate
For the Respondent-State:	:	Mr. Prabhu Narayan Sharma, AC to AG

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 06-01-2022

Heard Mr. Ravi Nandan, learned counsel for the petitioner and Mr. Rajesh Kumar, learned counsel for the respondent nos. 7 and 8.

2. Respondent No.9 Priya Rani has also joined the



Court proceedings being held through video conferencing from the Chamber of Mr. Rajesh Kumar, learned counsel appearing for respondent nos. 7 and 8.

3. The petitioner has filed the present application for issuance of a writ in the nature of *habeas corpus* for directing the respondent nos. 1 to 6 to produce respondent no.9 before the Court as well as for her release.

4. The contention of the petitioner is that respondent no.9, aged about 20 years, is his daughter-in-law. She was married to his son Rahul Kumar. Thereafter, she came to her in-laws' house. However, Sarai P.S. Case No.134 of 2018 was registered by respondent no.8 on 01.07.2018 under Sections 366A/34 of the Indian Penal Code alleging therein that his niece was forcefully abducted by Rahul Kumar. During investigation, in the said case, respondent no.9 was recovered and her statement was recorded on 29.06.2018 in which she stated that she had married Rahul Kumar out of her own sweet will and was living together with him. She further contended that her maternal uncle had lodged a false case and she wanted to go to her husband's house.

5. The further contention of the petitioner is that after taking into consideration the facts and circumstances of Sarai



P.S. Case No. 134 of 2018, the learned ACJM-13, Hajipur directed the release of the respondent no.9. It was also ordered that she should be taken to her in-laws' house under proper security. Thereafter, respondent no.9 was staying in his house with her husband. However, on 21.07.2019, respondent no.8 along with other accused persons came at the house of the petitioner and forcefully took away respondent no.9. In this regard, Mahua P.S. Case No.460 of 2019 was registered against respondent no.8 and others under Sections 366/34 and 363 of the Indian Penal Code as well as Section 3(1)(r)(s)(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

6. Mr. Ravi Nandan, learned counsel appearing for the petitioner submitted that since then several representations were submitted to the Senior Police Officers but the victim could not be recovered.

7. Earlier on 23.12.2021, when the matter was taken up by the Court, Mr. Rajesh Kumar, learned counsel appearing for the respondent nos. 7 and 8 had submitted that respondent no.9 has not been kidnapped by anyone. She is living with her mother out of her own sweet will. He submitted that respondent no.9 is ready to appear before the Court on the next appointed



day.

8. In view of the submissions made by the learned counsel for the respondent nos. 7 and 8, the case was adjourned and it was directed that respondent no.9 shall be physically present before the Court on 6th January, 2022 in-chambers.

9. Due to recent surge of Covid-19 cases, physical hearings in the Court has been stopped since on 04.01.2022. Hence, the Court proceedings are being held through video conferencing. Thus, respondent no.9 has joined the Court proceedings in person through video conferencing from the chambers of Mr. Rajesh Kumar, learned counsel for the respondent nos. 7 and 8. Her identity is not disclosed by the learned counsel for the petitioner.

10. We interacted with the respondent no.9. She categorically stated that she did not marry the son of the petitioner. Her statement was recorded in connection with Sarai P.S. Case No. 134 of 2018 under threat and coercion. She contended that she is living at her mother's house out of her own choice. She further contended that she does not want to go to the house of the petitioner.

11. Faced with the situation, learned counsel for the petitioner conceded that when the respondent no.9 herself stated



that she does not want to go to the house of the petitioner and she has not been abducted by anyone and is living at her mother's house out of her own choice, it would be difficult for him to pursue the present application further.

12. Indisputably, for the maintainability of a *Habeas Corpus* petition, it is mandatory that the aspect of illegal detention of the concerned person is proved.

13. In the present case, the concerned person has herself stated that she is not detained illegally by anyone. In that view of the matter, we see no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

(Rajeev Ranjan Prasad, J.)

sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.01.2022
Transmission Date	

