

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.560 of 2022

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

MD. JASIM ALAM S/o Md. Taslim Shah R/o- Shah Toli, Bhadauni,
Gondapur, P.S.- Town Thana, District- Nawada, Bihar- 806110

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Home, Government of Bihar, Patna Old Secretariat, Patna.
2. The Director General of Police, Old Secretariat, Patna. Bihar
3. The Inspector General of Police, Administration, Patna. Bihar
4. The Superintendent of Police, Nawada. Bihar
5. The Deputy Superintendent of Police, Nawada. Bihar
6. The S.H.O. Town Police Station, Nawada Bihar
7. The S.H.O. Bundelkhand Police Station Nawada. Bihar
8. Shakiba Praween W/o Md. Jasim Alam, D/o Afzal Hyat Resident of Mohalla- Mongla Khar, Gondapur, P.S.- Bundelkhand, District- Nawada, Bihar- 805110.
9. Afzal Hayat Son of Late Khalil Hayat Resident of Mohalla- Mongla Khar, Gondapur, P.S.- Bundelkhand, District- Nawada, Bihar- 805110
10. Jakiya Praween D/o Hasmat Hayat Resident of Mohalla- Mongla Khar, Gondapur, P.S.- Bundelkhand, District- Nawada, Bihar, 805110
11. Zinnat Praween D/o Hasmat Hayat Resident of Mohalla- Mongla Khar, Gondapur, P.S.- Bundelkhand, District- Nawada, Bihar- 805110

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Lalan Kumar, Adv.
For the State : Mr.Manish Dhari Singh, AC to AG
For Respondent no. 8 & 9 : Mr. Dr. Anand Kumar, Adv.
Mr. Deo Narayan Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE A. M. BADAR)

6 10-11-2022

This is a writ of habeas corpus filed by petitioner-



husband Md. Jasim Alam with the following prayer:-

(i) For issuance of an appropriate writ or writs, order or orders, direction or directions to the respondent authorities for recovery of Respondent no. 8 namely Shakiba Praveen wife of the petitioner who has been fraudulently taken away by own cousin sisters namely Jakkia Praveen and Zinnat Praveen, Respondent no. 9 and 10 as her grandmother is fallen seriously ill and as such family members of the petitioner took bidai of the petitioner's wife on good faith and Respondent no. 10 and 11 further assured the petitioner's family member that she will bring the petitioner's wife after four days and at present wife of the petitioner captive by respondent no. 9 with the help of Respondent no. 10 and 11 and they were confined the wife of the petitioner by the Respondent no. 9, 10 and 11 and petitioner did not knew about his whereabouts of his wife.

Heard all parties.

It is case of the petitioner-husband that he married respondent no. 8 Shakiba Praween on 16.01.2021 and subsequently, on 26.01.2021 respondent no. 10 Jakiya Praween and respondent no. 11 Zinnat Praween who happens to be sisters of respondent no. 8 Shakiba Praween deceitfully took away the respondent no. 8 from company of the petitioner. Respondent no. 10 Jakiya Praween and respondent no. 11 Zinnat Praween



represented that grandmother of respondent no. 8 Shakiba Praween is ill and she should accompany them to see the grandmother. They assured that respondent no. 8 Shakiba Praween will be sent back within four days. However, she was not sent back and she is in illegal detention of respondent no. 9 Afzal Hayat who happens to be father of respondent no. 8 Shakiba Praween. This is what is argued by the learned counsel for the petitioner.

When we perused the petition we located an application for restitution of conjugal rights filed under Clause 281 of the Muslim Law filed by the petitioner himself before the Principal Judge, Family Court, Nawada. Averments made in the said petition for restoration of conjugal rights are interesting and are totally divergent with the pleadings made in the petition. It is averred by the petitioner-husband in his marriage petition that on 15.02.2021, parents of respondent no. 8 Shakiba Praween came to his house. They enjoyed hospitality offered by the petitioner. Subsequently, parents of respondent no. 8 Shakiba Praween informed the petitioner that there is birthday celebration in their house in the evening. On this invitation, it is averred in the marriage petition that the petitioner and his wife respondent no. 8 Shakiba Praween accompanied parents of



Shakiba Praween and went to her parental house. It is further averred in the marriage petition that on reaching to her parental house, respondent no. 8 Shakiba Praween went inside the house whereas under threat, the petitioner was not permitted to enter in the house of his in-laws by his father-in-law i.e. respondent no. 9 Afzal Hayat as well as his brother-in-law.

This is the position of pleadings made in the petition before this Court as well as in the petition before the Family Court. Be that as it may, respondent no. 8 Shakiba Praween has filed her own affidavit countering the averments made in the petition. She has not disputed her marriage with the petitioner which took place on 16.01.2021. However, she stated that subsequently she applied for divorce to the Chief Mufti and Quazi at Kolkata. Three notices were issued to the petitioner for appearance before the Chief Mufti and Quazi. However, the petitioner failed to attend and resultantly on 01.11.2021, her application for Khula has been allowed by the Chief Mufti and Quazi, thereby severing marital ties between the petitioner and the affiant i.e. respondent no. 8 Shakiba Praween. It is further averred by the respondent no. 8 Shakiba Praween in her duly sworn testimony that she is not willing to reside with the petitioner after taking Khula due to irreconcilable differences



between them. Thus duly sworn affidavit of the allegedly detained person i.e. respondent no. 8 Shakiba Praween shows that she is not under illegal detention.

Respondent no. 8 Shakiba Praween is present before the Court duly identified by her learned counsel. We took assistance of advocate Manish Dhari Singh, assistant counsel to learned Advocate General who is appearing for respondents no. 1 to 7 i.e. State authorities before this Court. On our request learned advocate Mr. Manish Dhari Singh had interacted with the respondent no. 8 Shakiba Praween as we had passed over the petition after few matters. Thereafter learned advocate Mr. Manish Dhari Singh has informed this Court that respondent no. 8 Shakiba Praween is not willing to join company of the petitioner and she is residing with her parents out of her own free will.

In the light of these facts and for the reasons stated hereinabove, no case for illegal detention of respondent no. 8 Shakiba Praween is made out. Writ of habeas corpus is issued to vindicate personal liberty of the subject provided such person is under unwarranted illegal detention. Such is not the case in hand. Hence, the petition is devoid of merit and the same is accordingly dismissed.



Needless to mention that the petitioner is free to
pursue his legal remedies as prescribed by law.

(A. M. Badar, J)

(Alok Kumar Pandey, J)

shahzad/-

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