

WPA (H) 57 of 2022

(Debashish Prasad Vs. The State of
West Bengal & Ors.)

Mr. Swarup Banerjee
Mr. Sajal Kumar Ghosh

.... For the petitioner

Mr. Sabir Ahamed
Mr. Simanta Kabir
Mr. Ninjar Nath

.... For the State

The present writ petition has been preferred
primarily praying for the following relief:-

*‘Writ /Order/Direction in the nature of
Habeas Corpus do issue upon the respondents to
forthwith produce Sushila Chauhan, missing
wife of the writ petitioner, before this Hon’ble
Court.’*

Mr. Banerjee, learned advocate appearing for the
petitioner submits that the petitioner married one
Shushila Prasad, daughter of Shiv Kumar Chowhan
according to hindu rites and customs on 27th January,
2019. Thereafter, she was residing in her matrimonial
house along with the petitioner. Suddenly, she went
missing on and from 8th July, 2022. A complaint was
immediately lodged on the said date itself by the father
of the victim lady. A further complaint was lodged by
the petitioner’s father also on the same date. The
petitioner, thereafter, lodged a complaint on 26th
August, 2022 before the Commissioner of Police,
Asansol Durgapur Police Commissionarate. In spite of

such complaints, no steps were taken by the police authorities and the petitioner's wife has not yet been recovered. Aggrieved thereof, the petitioner has approached this Court.

Mr. Banerjee, learned advocate appearing for the petitioner submits that the petitioner as the husband of the victim lady can prefer the *habeas corpus* petition for regaining the custody of his wife. In support of such contention reliance has been placed upon a judgment delivered in the case of *Mohd Ikram Hussain Vs. State of U.P. & Ors.* reported in *AIR 1964 SC 1625*.

Per contra, Mr. Kabir, learned advocate appearing for the State submits that from the complaints, as annexed to the writ petition, it would be explicit that the victim lady escaped from her matrimonial house on 8th July, 2022 along with all her golden ornaments by removing the iron grill window of her room. Such fact has also been pleaded in paragraph 3 of the writ petition. The petitioner's wife, thus, willingly left her matrimonial house. However, upon receipt of the complaints lodged, the police authorities have already registered a case being Asansol (South) Police Station case No. 397 of 2022 dated 28th September, 2022 under Section 363/365 of the Indian Penal Code. Answering our query he submits that investigation is still continuing and no one has been arrested till date.

A writ in the nature of *habeas corpus* is a prerogative writ by virtue of which the causes and

validity of detention of a person are investigated by a summary procedure. The judgment upon which reliance has been placed by Mr. Banerjee is distinguishable on facts. It appears that the victim lady is adult. In exercise of its extra-ordinary jurisdiction, this Court cannot usurp the ordinary administration of criminal justice and interfere in the present *habeas corpus* petition.

In view thereof, no interference is called for in the present petition. However, the police authorities are directed to conduct investigation in Asansol (South) Police Station case No. 397 of 2022 dated 28th September, 2022 under Section 363/365 of the Indian Penal Code in a fair and impartial manner and conclude the same, as expeditiously as possible. The observations made in the present order, would not in any manner influence such investigation.

With the above observations, the *habeas corpus* petition being WPA (H) 57 of 2022 is disposed of.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)