

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPCRL No.52 of 2022

Kartik Pandit

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Petitioner

Mr. N. Panda, Advocate

-versus-

State of Odisha and Ors.

Opposite Parties

Mrs. S. Patnaik, AGA

CORAM:

JUSTICE S. TALAPATRA

JUSTICE B.P. ROUTRAY

ORDER
30.06.2022

Order No.

03.

1. This matter is taken up through hybrid mode.
2. Heard Mr. N. Panda, learned counsel appearing for the Petitioner and also heard Mrs. S. Patnaik, learned Additional Government Advocate appearing for the State.
3. By means of this petition, the Petitioner is seeking a direction on the Respondents No.1, 2 and 3 to produce the daughter of the Petitioner, who has been allegedly taken away from the custody of the Petitioner by the Respondent No.4.
4. Mr. Panda, learned counsel has strenuously submitted before us that, according to the School Leaving Certificate dated 15.01.2022 [annexed with the petition] the Petitioner's daughter is minor and as such the Petitioner is entitled to seek restoration of custody.

5. There is no dispute that the F.I.R. was lodged by the Petitioner on 26.02.2022 informing the police about the said alleged kidnapping.

6. From the other side, Mrs. Patnaik, learned Additional Government Advocate has produced before us the order dated 28.02.2022 delivered in WPCRL No.15 of 2022 (*Kartik Pandit vs. State of Odisha and Ors.*). That is an order of Division Bench of this Court. On the said order it has been categorically observed and declared as follows:

“3. The victim girl, who is the daughter of the Petitioner, was found to be a major on verification of her certificate after she was rescued by the police on 27.01.2022. Her statement was recorded and she, out of her own volition, decided to stay with her husband, who is alleged to have kidnapped her.”

4. As the victim girl is a major, she can choose a partner according to her wish and this Court cannot interfere in such choice. However, if the Petitioner wants to live with the girl (his daughter), he can approach the local Police Station under which the victim girl is staying with her husband, and under the supervision of the police, the Petitioner can meet the victim girl.”

7. With the said observation, the aforementioned petition was disposed of.

8. Mr. Panda, learned counsel has fairly admitted that no challenge was carried out against the said order by the Petitioner. Even, from the School Leaving Certificate [Annexure-2 to the petition] it reveals that on the date of filing of the F.I.R. i.e. 26.02.2022, the daughter of the Petitioner was major, as in that Certificate her date of birth has been shown as 5.01.2014. On that date, the Petitioner's daughter was more than 18 years. As such, we are of the opinion that, this petition cannot be sustained for issuance of the writ of habeas corpus. Accordingly, the same is dismissed.

9. However, the Police may investigate the complaint, lodged by the Petitioner, in accordance with law.

(S. Talapatra)
Judge

(B.P. Routray)
Judge