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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Decided on: 18th January, 2022

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W.P.(CRL) 2078/2021

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CRL.M.A. 16777/2021 (for directions)

TEENU & ANR.

.... Petitioner

Represented by: Mr. Awadesh Kumar, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS.

... Respondent

Represented by: Ms. Kamna Vohra, ASC for the State/ R-1,
R-4 & R-5 with SI Dinesh, PS Jyoti Nagar.
Ms. Garima Prasad, Sr.Advocate/AAG for
State of Uttar Pradesh with Mr.Tanmaya
Aggarwal, Advocate.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

JUDGMENT : (ORAL)

The hearing has been conducted through Video Conferencing.

1. The present petition had been filed by the two petitioners claiming that they are major and have married of their own free will on 1st July, 2021, contrary to the wishes of the parents of the petitioner No.1, who were impleaded as respondent Nos.2 and 3 and thus they sought protection from this Court as they apprehended action and threats from the respondent Nos.2 and 3.
2. When this petition came up before this Court on 25th October, 2021, petitioners also claimed that besides receiving threats from respondent Nos.2 and 3, the father and brother of petitioner No.2 were taken away by U.P.



police and were in custody for the last 1½ months and complaints were not being accepted by the police of Police Station Jyoti Nagar and whereabouts of the father and brother of the petitioner No.2 were not known. Considering the gravity of allegations leveled by the petitioners before the Court, this Court called for a detailed status report from the DCP concerned indicating whether any FIR has been lodged against the petitioners and whether any intimation has been received at any Police Station from the U.P. police who came to Delhi on 6th August, 2021 and took away the father and brother of petitioner No.2. This Court also granted protection to the petitioners through beat staff and division staff and directed that in case any specific complaint is received action thereon be taken in accordance with law.

3. On 26th October, 2021 a status report was filed by DCP concerned. The status report noted that as per the petitioners, father and brother of the petitioner No.2, *namely*, Rajender Singh and Amit were taken by the U.P. police from their residence and their whereabouts were not known. As per the status report, there was no intimation in this regard in the Police Station Jyoti Nagar and when the Police Station Shamli, U.P. was contacted, it was found that FIR No.398/2021 dated 6th September, 2021 under Section 366 IPC was registered and Rajender Singh and Amit were arrested on 8th September, 2021 from Kudhana Bus stand, District Shamli, U.P. and they were now in judicial custody. This Court also noted the statement of the mother of petitioner No.2 who stated that her husband and son were taken from the residence on the intervening night of 6th and 7th August, 2021, who was directed to file her affidavit in this regard. In view of the status report filed, this Court issued notice to the SHO PS Shamli, U.P. to be personally present on 28th October, 2021 along with case file of case FIR No.398/2021, registered at PS Shamli.



4. Affidavit of the mother of the petitioner No.2 was also placed on record wherein she stated that she was working as a clerk in Guru Tegh Bahadur Hospital. On 6th August, 2021 when she reached her residence at about 7.00 p.m. from her work, she found four police personnel of State of Uttar Pradesh present. When she inquired from them, they told that they had come from Police Station Shamli, District Shamli to arrest her husband Rajender Singh and elder son Amit aged 24 years. They further told that they were arresting her husband and son in the case. They did not however give any particulars of the case despite her request.

5. On 28th October, 2021 SHO PS Shamli, U.P. and the Investigating Officer of the FIR No.398/2021 were present along with case file. When this Court raised a query to the SHO as to whether any enquiry was made regarding the age of the petitioner No.1 and whether she had gone of her own free volition, and what efforts were made to trace the petitioner No.1, the SHO on instructions from the investigating officer stated that respondent No.3 did not give them any document showing the age of the petitioner No.1 and hence they were not aware whether the petitioner No.1 was major or minor. This Court then perused copy of the FIR No.398/2021 dated 6th September, 2021 and in the FIR itself it was noted that the petitioner No.1 was aged 21 years and had gone missing from the house on 1st July, 2021 at about 5:00 a.m. The FIR also noted that when the complainant tried to trace her daughter she got to know that she had been taken away by the petitioner No.2 son of Rajender, resident of House No.440, Gali No.14, E Block, Amar Colony, Delhi and two other persons by inciting her. The complainant also stated that she spoke to the mother of Tarun on phone and initially she stated that the girl was not with them, but later on stated that the girl was with them and that they will not return her. Thus from the FIR lodged by the



complainant itself, it was evident that the petitioner No.1 was major. Thus this Court directed SHO PS Shamli, U.P. to record the statement of the petitioner No.1 and also issued directions to the learned CMM, Patiala House Court to mark the matter to the Link Magistrate for recording of the statement of the petitioner No.1 under Section 164 Cr.P.C. so that necessary investigation could be carried out and the Investigating Officer can leave Delhi and take action in accordance with law.

6. On 18th November, 2021 the learned Additional Advocate General appeared on behalf of the State of U.P. and stated that in FIR No.398/2021 cancellation report had been filed and the father and brother of the petitioner No.2 have since been released and as the investigation was not carried out properly, a Special Investigating Team (SIT) had been constituted to investigate the issues flagged by this Court.

7. The SIT duly constituted by the DIG, Saharanpur Range, headed by the Superintendent of Police, Saharanpur has conducted an enquiry and during the course of the said enquiry statements of all the relevant persons including the concerned police officers, the complainant and her family members and the petitioners, their parents and the brother of the petitioner No.2 have also been recorded. Though in the statements, the police officers reiterated the facts as noted by them in the case diary, however, on conducting enquiry through their Call Details Record (CDR) in relation to the accusation with regard to the arrest of the father and brother of petitioner No.2 from Delhi by Shamli police, it was revealed that though no officers from Shamli Police came to Amar Colony, Delhi on 6th August, 2021 however, on 6th September, 2021 at about 6.00 p.m., SI Narender Kumar Verma, the IO along with Constable Anand Mohan and Constable Rajeev Sharma had come to the house of the petitioners at Delhi from where the



three police officers took Rajender Singh and Amit to Shamli, U.P. thereby substantiating the allegations of the petitioner's and their mother about the illegal arrest of Rajender Singh and Amit.

8. As per the report, the Investigating Officer and the two Constables were accompanied by the complainant, her son and a driver of the private vehicle and on being taken to Shamli, on failure of the talks to return the petitioner No.1 to the complainant family on 8th September, 2021 at about 13:08 hours they were shown to be arrested from Kudhana Bus stand, District Shamli, U.P. and sent to jail. The scientific investigation therefore reveals that the version of the mother of the petitioner No.2, who had filed affidavit in this Court that her husband and son were taken away by the U.P. police is duly fortified, though she claimed that they were taken on 6th August, 2021 but they were actually taken away on 6th September, 2021.

9. The enquiry report thus clearly shows that Rajender Singh and Amit were illegally taken from Delhi without informing the local police and were kept in illegal custody for two days and their arrest was shown only on 8th September, 2021 when the talks of returning petitioner No.1 to her mother failed.

10. This Court would like to place on record its appreciation for the enquiry officers who conducted this enquiry and unearthed the truth, which was being complained by the petitioners and the mother of the petitioner No.2 regarding the illegal arrest and confinement of Rajender Singh and Amit, who were taken away from Delhi.

11. Learned Additional Advocate General states that in view of the findings of the enquiry report further necessary action will be taken against the concerned police officers, who not only made false statements before this Court but have also created false documents in the investigation and



even in the enquiry, did not state correct facts till the facts were revealed from the analysis of the CDRs.

12. In view of the statement of the learned Additional Advocate General appearing for the State of U.P. no further orders are required to be passed by this Court, however, Rajender Singh and Amit and/ or their family members would be at liberty to take any civil or criminal action in accordance with law against the concerned police officials/ persons, if they so desire.

13. Petition and the application are disposed of.

14. Order be uploaded on the website of this Court.

(MUKTA GUPTA)
JUDGE

JANUARY 18, 2022
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