

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1327 of 2023

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

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Ajit Pandey Son Of Late Mahendra Nath Pandey Resident Of House No 233,
Nautun Bazar, Ps- Baishtha, Distt- Kamrup Metro (ASHAM, Gawahati)

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary Of The State Of Bihar,
Patna Bihar
2. The Director Genral Of Police, Patna Bihar
3. The District Magistrate, Buxar Bihar
4. The District Magistrate, Katihar Bihar
5. The Superintendent Of Police, Buxar Bihar
6. The Superintendent Of Police, Katihar Bihar
7. The Deputy Superintendent Of Police, Buxar Town Bihar
8. The Deputy Superintendent Of Police, Katihar Town Bihar
9. The State House Officer, Shimri, Ps- Buxer Bihar
10. The State House Officer, Town, Ps- Katihar Bihar
11. Swati Pandey Wife Of Ajit Pandey Resident Of Village- Court Compound,
Ps- Mirchaibadi, Dist- Katihar,

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Advocate
For the Respondent/s	:	Mr. P.K. Shahi (AG)
		Mr. Prabhu Narayan Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 13-09-2023

Heard Mr. Manoj Kumar, learned Advocate for the

petitioner and Mr. Prabhu Narayan Sharma for the State.



2. Mr. Manoj Kumar, learned Advocate presses the instant ill-conceived Habeas Corpus petition.

3. It has been alleged that the petitioner along with his wife and an eleven year old son had gone to offer prayers at Kamakhya temple in the State of Assam and from there, they had come to Buxar, which is the parental home of his wife but from there, his wife and son did not accompany him back.

4. Two informatory petitions filed before the Chief Judicial Magistrate, Buxar dated 23.12.2019 have been brought on record intimating that his wife and son had gone incommunicado and when with great efforts, he contacted his brother-in-law, he was not spoken to properly.

5. It further appears from his petition that he went to Assam and lodged an FIR *vide* Baishtha P.S. Case No. 61 of 2020 arraigning his wife and the wife's brother as accused persons for the offences under Sections 294, 506, 387 and 507 of the Indian Penal Code.



6. There is nothing on record to indicate about any development in the investigation of this case.

7. Almost in the same breath, the petitioner has stated that his wife had filed a maintenance case before the Principal Judge, Family Court, Katihar *vide* Maintenance Case No. 69 of 2020, in which notices were issued to the petitioner which he had received in the month of March, 2020. However, he could not respond to such notice because of the closure of Courts during COVID times.

8. Leaving everything unattended, the petitioner preferred a petition before the Principal Judge, Family Court-III, Kamrup (M) Guwahati *vide* Miscellaneous (G) Case No. 31 of 2021 under Section 7 of the Guardians and Wards Act, 1890 seeking custody of his son.

9. The aforementioned petition was heard on 14.02.2022 in which it was held that for the better interest and welfare of the minor, the petitioner would be the guardian of his son till his minority. A guardian certificate



was also issued in his favour after the petitioner would have furnished relevant bond.

10. A petition under Section 9 of the Hindu Marriage Act, 1955 was also filed by the petitioner for restitution of conjugal rights but this application also was filed at Guwahati. In the aforementioned petition, there is an *ex parte* decree in favour of the petitioner which is dated 28.02.2022.

11. A peculiar petition also appears to have been filed in High Court, addressed to the Registrar General and showing it as a list of grievances, seeking custody of the child in the light of the judgment passed by the Guwahati Court as also the Guardian certificate.

12. While all this was being agitated before us on behalf of the petitioner, we also found out from the petition that the wife of the petitioner has filed a Divorce Case under Section 13 of the Hindu Marriage Act, 1955 where summons have been issued to the petitioner to appear before the Principal Judge, Family Court, Katihar.



13. The aforementioned Divorce petition is based on the allegation of physical and mental torture.

14. With all these developments in the marital life of the petitioner, we are of the view that preferring this Habeas Corpus petition was not only ill-advised but was a misadventure on the part of the petitioner.

15. The petitioner has full knowledge that his wife is not agreeable to go with him and resume her matrimonial obligation. A divorce case is pending, where perhaps the petitioner has not appeared.

16. The petitioner also does not seem to have taken any corrective/follow-up action for having the decree of the Family Court, Guwahati to be executed.

17. Thus, *prima facie*, it appears to us that the petitioner has been forum shopping and making different statements at different forums.

18. Normally, we would have proceeded against him for taking action against the petitioner but considering the fact that he is fighting for the custody of his child as



also for resumption of his matrimonial life, we leave it at
this and dismiss the petition totally misconceived.

19. The petition stands dismissed.

(Ashutosh Kumar, J)

(Alok Kumar Pandey, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.09.2023
Transmission Date	15.09.2023

