

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1779 of 2023

Arising Out of PS. Case No.-205 Year-2022 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

VIKASH KUMAR @ BIKASH KUMAR son of Sunil Ram Village- Sirdilpur
Ps- Patori Dist- Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar through Director General of Police, Bihar, Police Head Quarter, Sardar Patel, Pat Bihar
2. The District Magistrate, Samastipur Bihar
3. The Superintendent of Police, Samastipur Bihar
4. The Sub Divisional Police Officer, Samastipur Bihar
5. The Station House Officer, Patori, Samastipur Bihar
6. Sanjit Thakur son of Late Dhoopan Thakur Village- Sirdilpur Ps- Patori Dist- Samastipur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Amit Kumar, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, AG

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

4 18-12-2023 Heard learned counsels for the respective parties.

2. In the instant petition, petitioner has prayed for the following relief/reliefs:

“(i) For issuance of an appropriate writ in the nature of Habeas Corpus or any other writ/writs, order/orders, command/commands, direction/directions for commanding the respondents to ensure recovery of the wife of the petitioner namely Neha Kumari, aged about 20 years who has been kidnapped since



15.05.2022 by the men of Private Respondent and still she is traceless.

(ii) Further to enquire into the matter as to why despite timely reporting the matter, Station House Officer did not take steps for recovering the said Girl and even has not lodged the case in this regard, though it was a cognizable offences and lodging the First Information Report is made mandatory by the constitution bench of the Hon'ble Apex Court in Lalita Kumari Versus The State of U.P. and Others, even despite information given to the respondents i.e. Director General of Police/Superintendent of Police/Sub-Divisional Police Officer the action was taken then the petitioner became compelled to file complaint case vide Complaint Case No. 205 of 2022 on 01.08.2022 before the Learned Special Judge, Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act, Samastipur, however being encouraged with such inaction the private respondent, his family members and gang men have invaded at the house of the petitioner and looted house article, smashing the motorcycle kept in the house for which also the information to all concerned on 14.07.2022 itself but nothing is done by the respondents. Thereafter again gave representation on 29.07.2022 but no any step taken by this respondents which is unfortunate in rule of law.

(iii) Further for directing the respondents concern ensure fair and impartial investigation through any third agency as the local police has hands in gloves with the private respondent under political reason.

(iv) For issuance of an appropriate direction to the respondent Superintendent of Police to initiate an enquiry to ascertain the reason for not lodging the case on the report dated 14.07.2022 and



after ascertaining the guilt suitably punish the said Station House Officer, Patori.

(v) For granting any relief, for which the petitioner may be found entitled in law.”

3. Pursuant to our earlier order, *Neha Kumari* was asked to present so as to ascertain certain factual aspects from her. She is disputing marriage with the petitioner – *Vikash Kumar*. On the other hand, she is stated to have married one *Dharmendra Thakur* on 16.03.2022 and out of such wedlock a girl baby is stated to have been delivered and she is about 4 months old. On the other hand, petitioner - *Vikash Kumar* is stated to have married *Neha Kumari* on 09.05.2022. These are disputed issues which cannot be adjudicated in writ of Habeas Corpus. Therefore, present petition stands disposed of in view of the fact that *Neha Kumari* is residing with her parents reserving liberty to the petitioner *Vikash Kumar* to invoke appropriate remedy with reference to Hindu Marriage Act, 1955.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

GAURAV S./-

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