

WPA (H) 4 of 2023

(Chandramani Pandey Vs. The State of
West Bengal & Ors.)

Mr. Prabir Maji
Mr. Shyamal Kumar Das

.... For the petitioner

Mr. Nirjhar Nath

.... For the State

Mr. Shuvanil Chakraborty

..... For the respondent nos. 9 to 13

The present *Habeas Corpus* petition has been preferred primarily praying for the following relief:-

‘A writ of and/or in the nature of habeas corpus do issue commanding the respondents and/or each one of them to recover and produce petitioner’s wife namely Sushila Pandey before this Hon’ble Court.’

Mr. Maji, learned advocate representing the writ petitioner submitted that the private respondents being his brothers-in-law, have kidnapped and illegally detained his wife and he added that the writ petitioner approached the police authorities. The police authorities did not take any steps and hence, he was constrained to file a complaint under Section 156(3) of the Code before the competent Court of law and basing upon such complaint, one Parnasree Police Station Case No. 436 dated 25th November, 2022 under Sections 34/342/387/506 of the Indian Penal Code was registered, but the concerned authorities have not investigated the case honestly and fairly and hence, he

has been forced to approach this Court by preferring this writ petition.

Mr. Chakraborty, learned advocate, enters appearance on behalf of the respondent nos. 9 to 13. He submitted that the private respondents being the brothers-in-law of the writ petitioner, has been forced to take their sister, who happens to be the wife of the writ petitioner, with them in their parental house since their sister was subjected to tremendous physical and mental cruelty and he submitted that their sister has been living in their custody voluntarily and there is no illegal detention and hence, he prays for dismissal of this writ petition.

Mr. Nath, learned advocate representing the State denies and disputes the contention of the writ petitioner and he submitted that there is no case of illegal detention and hence, such writ petition cannot be maintained.

Here, the writ petitioner married Sushila Pandey on 22nd April, 2008 and they were blessed with a female child, namely, Rajlaxmi Pandey and a male child, namely, Manish Pandey in 2013 and 2016 respectively and thereafter, the disputes surfaced in their marital life and hence, she was forced to leave her maternal house on 23rd July, 2022 and she took shelter in the house of her brothers.

The victim lady is personally present in the Court and she submits that she is still living in parental

house along with her brothers on her own volition and there is no illegal detention.

A woman who has attained majority is free to stay at any place of her choice and neither her husband nor any of her relative can put any restraint on her choice and if the writ petitioner being his husband feels that she has withdrawn herself from his society without any lawful excuse, he is free to take recourse of alternative remedy which lies in the law governing the incidents of their marriage. We did not find any material to infer that the victim lady has been suffering wrongful restraint.

In view thereof, no interference is called for in this writ petition.

Accordingly, the *Habeas Corpus* petition being WPA (H) 4 of 2023 is dismissed.

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.)