

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.874 of 2024

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

Jitendra Singh Son of Shri Aram Singh Chauhan Resident of Flat no. 304b,
Ramnath Apartments, IAS Colony, Kidwai Puri, Shri Krishna Nagar, Patna,
Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Home (Police)
Department Govt. Of Bihar, Patna Patna
2. The Chief Secretary, Government of Bihar, Patna Bihar
3. Director General of Police, Government of Bihar, Patna Bihar
4. Deputy Inspector General of Police, Patna Range Bihar
5. Superintendent of Police, Patna, Bihar Bihar
6. Officer Incharge, Patrakar Nagar Police Station, Patna, Bihar Bihar.
7. Abhilasha Singh Wife of Jitendra Singh, Daughter of Nawal Kishore Singh
R/O (last known address) Shiv Chandra Path-2, Kali Mandir Road,
Hanuman Nagar, P.S.- Patrakar Nagar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Atulya Nehra, Advocate Mr.Vishal Vikram Rana, Advocate Mrs.Misha Bharti, Advocate Ms.Ananya Shivani, Advocate Mr.Aditya Singh, Advocate
For the Respondent No.7:		Ms.Shama Singh, Advocate Ms. Asmita, Advocate Ms.Shreya, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

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

3 06-05-2024 In the instant petition, petitioner has prayed for the
following relief(s):-

*“I. To issue a writ in the nature
of Habeas Corpus for production of the
minor son named Siddharth Singh illegally
removed by the mother from the last known*



address and hence unlawfully detaining minor child to restrain petitioner from meeting his minor son and to pass necessary orders directing the respondents to produce the minor son.

II. And, for any other relief or reliefs to which the petitioner is found entitled.”

2. Petitioner – *Jitendra Singh* and Respondent No. 7 - *Abhilasha Singh* were stated to have married on 18.05.2014 at Patna in terms of Hindu rites and customs. There were domestic issues among them and resulted in living separately from 20.11.2020. Petitioner was working at Noida during the period from 2020 to December, 2022. His company allowed him to work from any place. Taking advantage of such procedure of his employer, he has shifted place of working to Patna in the month of January, 2023. In the meanwhile, he had visitation right with his child and wife – *Abhilasha Singh* had no issue. However, abruptly in the month of April, 2023 wife had filed divorce petition. In which petitioner has filed application under Section 26 of Hindu Marriage Act, 1955 and it was filed on 19.09.2023, till date wife has not filed counter affidavit it is learnt that she is not co-operative in deciding either decree of divorce petition or custody matter under Section 26 of Hindu Marriage Act, 1955. In this backdrop, the petitioner has filed the present Criminal



Writ Jurisdiction Petition No. 874 of 2024.

3. No doubt, the present petition is not maintainable, since Section 26 of the Hindu Marriage Act, 1955 application is pending consideration before the jurisdictional Family Court. The respondent-wife, if she has not filed any counter affidavit or written statement to application under Section 26 of Hindu Marriage Act, 1955 she is permitted to file it at the earliest.

4. Thereafter, Family Court is permitted to decide application under Section 26 of Hindu Marriage Act, 1955 within a reasonable period of time. In the meanwhile, respondent-wife is requested to allow her husband to have a visitation right once in a week, i.e., on Sunday between 10:00 A.M. to 01:00 P.M. the place of visitation right is at City Centre, Patna as desired by the respective parties.

5. The petitioner is stated to be suffering from certain illness which may harm the mind of the child. In the event of meeting alone, therefore, whenever petitioner have the benefit of visitation right between 10:00 A.M. to 01:00 P.M. on every Sunday. The child must be accompanied by his mother *Abhilasha Singh*.

6. The petitioner is requested not to abuse the child in any manner on mobile phone or any interaction. He has only



visitation right with his child during aforementioned period till final order to be passed under Section 26 by the Family Court. This is only an interim arrangement in the interest of parents and child welfare. Once again we request the petitioner to be calm and cool with the child and his wife *Abhilasha Singh*. During visitation right time, if any, scuffle is on account of petitioner in that event Respondent No. 7 – *Abhilasha Singh* (wife of *Jitendra Singh*) is permitted to move an application before this Court to recall this interim arrangement of visitation of rights among the family members.

7. Leaving open all the contentions to be urged before the Family Court under Section 26 of Hindu Marriage Act, 1955 insofar as visitation right of the petitioner on permanent or temporary basis.

8. With the above observation, the preset petition stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

abhishekk/-

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