

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1982 of 2024

Arising Out of PS. Case No.-383 Year-2023 Thana- GAUTAMBUDHNAGAR District-
Siwan

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Mithun Kumar Manjhi S/o Vakil Manjhi R/o Village_Dinapatti ,PS_G.B
Nagar Tarwara , Distt_ Siwan

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, (Home) Deptt., Bihar Patna
2. The Principal Secretary (Home) Deptt., Gov. of Bihar, Patna Bihar
3. The District Magistrate, Siwan Bihar
4. The superintendent of Police, Siwan Bihar
5. The Chairman, Child Welfare Committee, Saran at Chapra Bihar
6. The Superintendent/officer in Charge, Girls Child Welfare Home, Saran at Chapra Bihar
7. The Superintendent, Balika Sudhar Grih, Saran at Chapra Bihar
8. The Station Head Officer, G.B. Nagar Tarwara Police Station, Saran at Chapra Bihar
9. Shobha Kumari W/o Mithun Kumar Manjhi, D/o Chandrika Pandit R/o vill - Hakma, P.s. - G.B. Nagar Tarwara, distt. - Siwan, Presently lodged at Balika Sudhar Grih, Saran at Chapra, Bihar
10. Chandrika Pandit S/o Late Raj Roop Pandit R/o vill - Hakma, P.S. - G.B. Nagar Tarwara, Distt - Siwan

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar, Advocate
For the Respondent/s : Mr.G.A.9

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

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

2 26-09-2024 In the instant petition, petitioner has prayed for the

following relief(s):-

*“I. For issuance of writ in the
nature of Habeas Corpus thereby*



commanding upon the Respondents to release The Respondent No. 9 Shobha Kumari a legally wedded major Girl and wife of the petitioner from their illegal detention in Balika Sudhar Grih, Saran at Chhapra who is legally wedded wife of the petitioner and has attained her majority before the marriage.

II. For further directing the respondents concerned to produce The Respondent No. 9 Shobha Kumari before this Hon'ble Court during hearing and handover her to the petitioner after due assessment of her age by this Hon'ble Court.

III. For grant of any other relief/reliefs for which the petitioner is entitled for and the Hon'ble Court deems fit and proper."

2. The aforementioned relief cannot be adjudicated under Article 226 read with Article 227 in the form of *Habeas Corpus*, for the reasons that petitioner is stated to be husband of 9th Respondent. If the 9th Respondent is not willing to join petitioner, in that event petitioner has statutory remedy of filing petition under Section 9 of Hindu Marriage Act, 1956.

3. Hon'ble Supreme Court in the case of ***Vipin Sahni and Another Vs. Central Bureau of Investigation*** reported in ***2024 SCC Online SC 511*** in Para 25 and it held as under:-

"25. We may also note that in the event a revision is lawfully instituted before the High Court but the same is thereafter found to be not maintainable on some other ground, it would be open to the High Court to treat the same as a petition filed under



Section 482 Cr.P.C. in order to do justice in that case. However, the reverse analogy may not apply in all cases and it would not be open to the High Court to blindly convert or treat a petition filed under Section 482 Cr.P.C. as one filed under Section 397 Cr.P.C., without reference to other issues, including limitation. When the specific remedy of revision was available to the CBI, it could not have ignored the same and filed a petition under Section 482 Cr.P.C. We, therefore, find in favour of the appellants even on this count.”

4. In view of the aforementioned principle laid down by the Hon’ble Supreme Court, the present petition is not maintainable.

5. In the light of these fact and circumstances, petitioner has statutory alternative remedy, accordingly, the present petition stands disposed of, reserving liberty to the petitioner to invoke appropriate remedy.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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