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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 07th March, 2024***

+ W.P.(CRL) 769/2024

R R K S BHARTIYA

..... Petitioner

Through: Mr. Manoj Kumar Sharma,
Advocate with petitioner in
person.

versus

THE STATE OF NCT OF DELHI & ORS. Respondents

Through: Mr. Sanjay Lao, Standing
Counsel (Crl.) with Ms. Priyam
Agarwal, Mr. Abhinav Kumar
Arya and Mr. Shivash Kaushik,
Advocates with SI Priya, SI L.
Lama and Inspr. Chhotelal, PS
Sagarpur.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Present petition has been filed by petitioner seeking following
prayer:-

*“Under this circumstances, it is therefore prayed to
this Hon'ble court may graciously be pleased to pass
necessary direction/order in the nature of Habeas
Corpus to give the appropriate direction to
respondents to find out the missing son namely
Mragank Bhartiya and grand Daughter namely xxxxx
of the petitioner in the interest of justice.”*

2. Issue notice. Learned Standing for the State accepts notice on
behalf of the State. He has produced the status report dated



07.03.2024. The same is taken on record.

3. As stated in the present petition, the son of the petitioner Mr. Mragank Bhartiya got married with respondent No.7/Archana Kumari as per Hindu rites and ceremonies on 31.12.2017 and out of the wedlock one daughter named xxxxx was born on 24.05.2018. It is further stated that the younger son of the petitioner namely Amish Kumar got married with one Ms. Dolly Kumari, (the younger sister of respondent No.7) on 01.06.2022 and on 07.07.2022, they got their marriage registered with the Sub-registrar and started to reside with the petitioner at his home.

4. On 14.09.2022, the father of respondent No.7 and of Ms. Dolly Kumari, who was also the father-in-law of the sons of the petitioner, expired and on 26.07.2022, petitioner along with his family members went to Bihar for performing his last rites.

5. It is alleged that respondent No.7/Archana Kumari with the connivance of her relatives had beaten the petitioner, his son Amish Kumar and Ms. Dolly Kumari and kept them under detention in their house in Bihar and they were rescued and sent back safely to Delhi, with the intervention of local police of Bihar on 28.07.2022.

6. It is stated that respondent No.7 filed a maintenance petition against the son of the petitioner Mr. Mragank Bhartiya before the Court of PJFC, Gautam Budh Nagar, UP which is pending and is listed on 11.03.2024. She has also filed an FIR under Sections 498A/406/34 IPC with District Gautam Budh Nagar, UP against



petitioner and his family members wherein chargesheet is stated to have been filed but charges have still not been framed.

7. It is stated Dolly Kumari has given a written complaint against respondent No.7 at PS Sagarpur, Delhi on 10.04.2023. Son of the petitioner Mr. Mragank Bhartiya has also lodged a complaint against his wife at PS Sagarpur, Delhi.

8. On 23.02.2024, Mr. Mragank Bhartiya received a phone call from police officials of PS Sagarpur, Delhi who asked him to come immediately at the said police station along with his minor daughter xxxxx and thereafter on the same day in evening, respondent Nos.2 to 5 came to the his house and forcibly took her minor daughter xxxxx to the said police station. Thereafter, petitioner and his sons along with Ms. Dolly Kumari went to the said Police Station and where respondent Nos.2 to 5 threatened them to implicate in Criminal Cases under sections 354/376 IPC and POCSO Act in case they did not send Mr. Mragank Bhartiya and his minor daughter xxxxx with respondent No.7/Archana Kumari.

9. Present petition had been filed by the petitioner to find out his missing son Mragank Bhartiya and his granddaughter.

10. Pursuant to the last order dated 06.03.2024, son of the petitioner along with his wife and daughter, are present in Court.

11. We have interacted with the son of the petitioner Mr. Mragank Bhartiya and his wife in chamber as well as in open Court.



12. Son of the petitioner Mr. Mragank Bhartiya submits that on receiving a call from the PS Sagarpur, he along with his father and other family members went to the said Police Station wherein respondent Nos.2 to 5 showed a complaint of sexual assault filed by his wife Archana Kumari against his father (petitioner) and told them that all such cases filed against them would be withdrawn subject to the condition that they hand over the granddaughter of the petitioner to her mother Ms. Archana Kumari and her husband Mr. Mragank Bhartiya also joins them. Thereafter, he has been living with his wife Ms. Archana Kumari and their daughter since 23.02.2024. He further submits that since he and his family has already faced mental trauma and various legal matters, he is not ready and willing to live with his wife Ms. Archana Kumari.

13. The age of their daughter is only 5 years 9 months.

14. In view of the above, it is directed that till the parties move appropriate petition before the Family Court for custody/visitation of the granddaughter of the petitioner, who is less than 6 years of age, her custody shall remain with her mother Ms. Archana Kumari, who has today also brought her to the Court.

15. The son of the petitioner Mr. Mragank Bhartiya submits that he would like to take out his belongings which are lying at the rented accommodation at Noida. Accordingly, concerned police officials of PS Sagarpur are directed to make arrangements so as to enable Mr. Mragank Bhartiya to take back his belongings from such rented accommodation at Noida.



16. Since the son and granddaughter of petitioner are present in Court, no further order is required in present petition which is merely in the nature of Habeas Corpus.

17. Petition is, accordingly, disposed of.

(SURESH KUMAR KAIT)
JUDGE

(MANOJ JAIN)
JUDGE

MARCH 07, 2024
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