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

Date of decision:-7th August, 2024.

+ **W.P.(CRL) 2845/2022, CRL.M.A. 3487/2023 & 16018/2023**

GHANSHYAM

.....Petitioner

Through: Mr. Abhishek Grover, Advocate.

versus

THE STATE (GOVT. OF N.C.T DELHI) & ORS.Respondents

Through: Mr. Sanjay Lao, Standing Counsel
CRL.) with Mr. Priyam Aggarwal and
Mr. Abhinav Arya, Advocates
(M:098705 09554).

Insp. Pramod Kumar,
ATO/Begumpur.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present *habeas corpus* petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C has been filed by the Petitioner- Ghanshyam seeking directions for Respondent Nos. 1 to 4 to produce the Petitioner's daughter, who is allegedly under illegal detention of Respondent Nos. 5 to 10.
3. It is the Petitioner's case that his daughter- Ms. J left home on 8th October, 2018 and despite repeated efforts to search for her, she has not been traced. As per the petition Ms. J was 17 years 11 months and 29 days when she went missing. A missing complaint was filed by the Petitioner about her



daughter- Ms. J on 9th October, 2018 in P.S. Begumpur. The Petitioner thereafter enquired about Ms. J and filed two more complaints *i.e.*, on 7th December, 2018 and 11th December, 2018, respectively in P.S. Begumpur, alleging the involvement of Petitioner's relatives *i.e.*, Respondent Nos. 5 to 10. However after 3 years of the said complaints an FIR bearing no **FIR No. 0409/2021** was registered under Section 363 of IPC at P.S. Begumpur. The Petitioner further avers in the petition that sufficient steps were not taken by the police and hence the present petition.

4. The petition has a long history. The present petition was filed on 8th August, 2022, that is approximately after 4 years of Ms. 'J' being missing. The matter was first listed on 29th November, 2022.

5. *Vide* order dated 9th December, 2022, the Court had directed Delhi Police to file a status report elaborating the steps taken to trace Ms. J and thereafter, various Status Reports have been filed by the State. A summary of the various Status Reports filed in the present case are set out hereinbelow.

6. In the Status Report dated 1st December, 2022, the police authorities submitted that the Petitioner had claimed that on the date that his daughter went missing, she was aged 17 years, 11 months and 29 days, with her date of birth being 9th October, 2000. Thereafter an FIR was registered bearing **FIR No. 409/2021** dated 26th August, 2021 under Section 363 IPC at PS Begumpur. It has also been recorded that suspicion was raised against various persons, including certain relatives, who were all interrogated parallelly by the police authorities. In the meantime, several efforts were made to trace the missing girl.

7. A counter affidavit dated 7th December, 2022 was also filed by the relatives against whom allegations were made by the Petitioner, namely,



Respondent No. 5- Mr. Om Prakash, Respondent No. 6, Respondent No. 7- Mr. Vivek and Respondent No. 9- Mr. Vinay Kumar. As per the said counter affidavit, it was stated that the Petitioner allegedly molested Respondent No.6 and an FIR has also been registered. The said counter affidavit explains how Ms. J used the help of her cousin sister -Respondent No. 6.

8. A copy of the **FIR No. 633/2022** registered against the Petitioner under Section 376 IPC in PS Khanjawala was also been attached with the said counter affidavit.

9. Thereafter, additional Status Reports have been filed on 9th January, 2023; 6th February, 2023 and 7th March, 2023. Allegations were raised against Respondent No. 5-Sh. Om Prakash and Respondent No. 6- Ms. Meenu by the Petitioner. As per his allegations raised by the Petitioner, it is stated that they had knowledge regarding the missing girl (daughter of the Petitioner). Consequently, they were again interrogated in detail by the police authorities. Investigation was also carried out through the IMEI number, and efforts were made to trace the girl.

10. Further Status Reports have similar content viz., Reports dated 6th April, 2023; 12th May, 2023; 11th July, 2023, 15th September, 2023; 30th October 2023; 21st November, 2023; 9th January, 2024; 31st January 2024; 1st April, 2024; 7th May, 2024; 28th May, 2024 and finally 1st July, 2024, setting out all the efforts to trace out the missing girl.

11. A letter dated 24th October 2018, written by the missing girl, was mentioned for the first time in the Status Report dated 30th October, 2023.

12. In the Status Report dated 1st July, 2024, the stand of the police authorities is that they had received the said letter dated 24th October, 2018, wherein the girl informed them that she has already got married and there are



rape cases against her father and she does not wish to meet her father.

13. Signatures on the letter dated 24th October 2018, were to be verified with the genuine signatures of the missing girl. The bank account opening form, accordingly, was sent along with this letter to the FSL, Chandigarh. However, the FSL vide letter dated 16th May, 2024 was not able to provide a concrete opinion as to whether the signatures in the letter are genuine signatures of the missing girl or not.

14. On the last date, *i.e.*, on 5th July, 2024, the Court directed the Petitioner, as also Respondent no. 6 and Respondent No. 5 to appear before the Court. The Petitioner and his wife, who are the parents of Ms. J are present in Court. The cousin brother of the girl *i.e.* Tayaji's son-Mr. Vivek Kumar who is Respondent No. 7 is also present in Court today.

15. The Court has interacted with them. The Court has also heard Id. Standing Counsel and the Id. Counsel for the Petitioner. The submission on behalf of the Petitioner, also the mother who is present, is that the girl ought to be produced and efforts to trace her should continue. She submits that her daughter went to learn tailoring on the day of the incident and thereafter, went missing. She came to know the fact that she left home through a message which was given by Mr. Vivek Kumar, her *nephew*. According to her, after 8th October, 2018, the phone of the daughter has been switched off and she has remained completely *incommunicado*.

16. On behalf of the State, Mr. Lao, Id. Standing Counsel submits that the said letter received in the police station by the IO Mr. Rajesh Meena. As per their verification, the letter consists of the missing girl's signatures. In the said letter, she clearly stated that she has already got married, and that she does not want to be in touch with her parents. The police authorities have also



compared the signatures affixed on the letter, with the SBI bank account opening form and are of the opinion that the signatures on the letter belong to the girl on comparison and the same was also received by post. It has been also urged that before she left on 8th October, 2018, she in fact sent WhatsApp messages to her cousin brother-Vivek/ Respondent No. 7 informing him that she was leaving, and if anyone tried to trace her, she would file a police complaint. The text of the WhatsApp messages has been shown to the Court.

17. The cousin brother Vivek has also confirmed that he had received the WhatsApp messages, which have been given to the police. Respondent No. 7 own sister, *i.e.*, Respondent no. 6, whose presence was directed for today, is also missing. She is also stated to have been separated from her husband. Mr. Vivek further states that Ms. J was being ill-treated by the Petitioner and hence she does not wish to return. But he has categorically stated that she is not in touch with him.

18. Under these circumstances, the Court is of the view that the girl has deliberately remained untraceable despite all efforts. Till now, investigation has not revealed her location. The investigation should, however, continue for tracing the girl, and if any information is received by the police authorities, the same shall be communicated to her parents.

19. This Court is of the opinion that no useful purpose would be served in keeping the present petition pending.

20. If the police authorities receive any other information, and any directions are required from this Court, the police authorities are free to move an appropriate application.

21. Status Reports including any leads that may be received, be filed before the concerned Magistrate on a quarterly basis with due intimation to the



parents of Ms. J. If any urgent lead is received, the parents' presence would be required, and so the police may contact the parents. Respondent No. 7 and his family is directed to immediately inform the police if the missing girl *i.e*, Ms. J contacts them.

22. The present petition is disposed of in the above terms, with all pending applications, if any.

PRATHIBA M. SINGH
JUDGE

AMIT SHARMA
JUDGE

AUGUST 07, 2024/MR/KS