



2024 :DHC :8287-DB



\$~13 & 15

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

Date of Decision: 23rd October, 2024

13

+

W.P.(CRL) 3190/2024

RUNA DEVI

.....Petitioner

Through: Mr. A. K. Srivastava and Mr. Mohit Kumar, Advs. Petitioner in person (M:9953801375).

versus

THE STATE NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel (criminal) for the State with Ms. Priyam Agarwal and Mr. Abhinav Kr. Arya, Advocates.
Insp. Surender Sharma, PS AHTU/Shahadara with WSI Shalu, DTU/Shahadara.

15

AND

+

W.P.(CRL) 2646/2024, CRL.M.A. 29661/2024 & CRL.M.A. 30756/2024

SHASHANK GUPTA

.....Petitioner

Through: Mr. Umesh Sharma, Mr. Munish Gaur and Mr. Ritesh Kaushik, Advs. with Petitioner in person.

versus

**STATE (GOVT. NCT OF DELHI) THROUGH
& ANR.**

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel (criminal) for the State with Ms. Priyam Agarwal and Mr. Abhinav Kr. Arya, Advocates.
Insp. Surender Sharma, PS AHTU/Shahadara with WSI Shalu, DTU/Shahadara.
Mr. S.S. Ahluwalia, Ms. Saniya Zehra



2024 :DHC :8287-DB



and Mr. Yuvraj Jaiswal, Advocates
(M- 9149369639) with Subhash
Chabhara in person.
Mrs. S in person.

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 case reveals a rather unfortunate situation wherein the State machinery as also substantial judicial time have been utilised owing to the deceptive and misleading conduct of several parties involved.
3. The present writ petitions *i.e.*, ***W.P.(CRL) 3190/2024 and W.P.(CRL) 2646/2024***, have been filed on behalf of the Petitioners-Runa Devi and Shashank Gupta respectively under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking issuance of a writ of *habeas corpus*.
4. In ***W.P.(CRL) 2646/2024***, the Petitioner – Mr. Shashank Gupta, has sought production of his wife (Mrs. ‘S’), and their two minor children. The allegation in the said writ petition is that on 24th August, 2024, Mrs. S left her matrimonial home along with the two minor children accompanied by one of Petitioner’s employee- Respondent No. 2 *i.e.*, Mr. Chandan Rai. It is also alleged that a substantial amount of jewellery and cash has also been taken by Mrs. S.
5. The petition ***W.P.(CRL) 2646/2024*** was first listed on 30th August, 2024, when the Id. Standing Counsel for the State placed on record a status report dated 30th August, 2024 providing details of the steps taken to trace



the aforesaid missing persons. In the said report, CCTV footage was relied upon to submit that Mrs. S and the two minor children were accompanied by Mr. Chandan and could be seen getting into an auto, as per the said footage. Further, a letter dated 27th August, 2024, allegedly written by Mrs. S, was stated to have been received by her father, which was also handed over to the police, wherein Mrs. S has expressed her intention to seek divorce from the Petitioner-Mr. Shashank Gupta. The relevant portion of the order dated 30th August, 2024 is extracted hereinunder:

“4. A status report dated 30th August, 2024 has been handed over in Court by Mr. Sanjay Lao, Id. Standing Counsel under the signatures of the SHO, P.S Jagat Puri, Shahdara. The said status report is taken on record. As per the said status report efforts have been made to trace out all of the missing persons i.e., Petitioner's wife and children.

5. It is submitted by Mr. Lao that one of the CCTV footages examined by the concerned Investigating Officer reveals that the wife and the children of the Petitioner were accompanied by Respondent no. 2.

6. The Id. Standing Counsel has also placed on record a letter allegedly written by the Petitioner's wife and received by her parents on 27th August 2024 which has been handed over to the Police. It is submitted that in the said letter Petitioner's wife allegedly states that she wishes to take divorce from the Petitioner.”

6. The matter was then taken up on 12th September, 2024 when the status report dated 9th September, 2024 was placed on record. On a perusal of the same, the Court observed that certain transactions had been conducted from the bank accounts of the missing persons after the date on which they were reported to be missing. It was further informed to the Court that Mrs. S had changed the nominee in a fixed deposit. Earlier the nominee was her husband



but one day prior to leaving the matrimonial home, Mrs. S had changed the nominee to Mr. Chandan.

7. Thereafter, on 1st October, 2024 a further status report dated 28th September, 2024, was placed on record. The same revealed multiple steps taken by the Delhi Police to trace the missing persons as also that the Fixed Deposit Receipt for a sum of Rs. 13,50,000/- has been frozen on instructions of the police. However, due to the missing persons still not being traced, the Court on 1st October, 2024 directed for the investigation in the present case to be transferred to the Anti-Human Trafficking Unit, ('AHTU') Shahdara District.

8. The Court, on 9th October, 2024, considered an application being **CRL. M.A. No. 30756/2024** filed by the father of Mrs. S, stating that an email dated 8th October, 2024 has been received by him from Mrs. S, wherein she has stated that she wishes to come back to her father's house, subject to protection being granted to her from the Petitioner – Mr. Shashank Gupta. The said email was sent from an email address "sakshichh@proton.me". The Court directed the said email to be handed over to the concerned Investigating Officer.

9. In the meantime, a second writ petition being **W.P.(CRL) 3190/2024** was filed by Ms. Runa Devi seeking production of her son - Mr. Chandan Rai *i.e.*, the person who is stated to be missing along with Mrs. S. The allegation in this petition is that the employers of Mr. Chandan *i.e.* Mr. Shashank Gupta and Mrs. S, had illegally detained him and his whereabouts are not known.

10. On the last date of hearing *i.e.* 15th October, 2024 when **W.P. (CRL) 3190/2024** was listed for the first time, Mr. Sanjay Lao, Id. Standing Counsel informed the Court that the said petition is connected with **W.P.(CRL) 2646/2024** and the missing person in the former petition is the same Mr.



Chandan against whom the allegations have been made by Mr. Shashank Gupta in the latter petition. The Court had, thereafter, directed listing of ***W.P.(CRL) 2646/2024*** on 15th October, 2024 itself.

11. On 15th October, 2024, the Court was informed that Mrs. S, along with both the minor children, has surrendered before the AHTU, Shahdara. The Court then directed the production of Mrs. S with both the minor children and also directed the physical appearance of Mr. Shashank Gupta. Further, on the said date, the Court had an in chamber interaction with the following parties:

S. No.	Person	Relation	Petition No.
1.	Mr. Shashank Gupta	Petitioner/Husband	<i>W.P.(CRL) 2646/2024</i>
2.	Mr. Prem Chand Gupta	Grandfather of the Petitioner	
3.	Mr. Parveen Kumar Gupta	Father of the Petitioner	
4.	Master 'A' and Miss 'A'	Two minor children of the Petitioner	
5.	Mrs. S	Wife of Petitioner	
6.	Mr. Subash Chhabra	Father of Mrs. S	
7.	Mr. Puneet Chhabra	Brother of Mrs. S	
8.	Ms. Runa Devi	Petitioner and Mr. Chandan's mother	<i>W.P.(CRL) 3190/2024</i>
9.	Ms. Annu	Mr. Chandan's sister	

12. In the chamber interaction with the aforesaid parties, the Court on 15th October, 2024 observed the following:

“15. The IO is currently in the process of further investigation. The Court has also perused the answers



given by Ms. S to certain questions posed to her by the IO during the limited enquiry in the morning today. The Court has also enquired Ms. S as to the whereabouts of Mr. Chandan, however, she has stated that she is unaware of the same.

16. From the enquiry made by the IO it also appears that Mrs. S has moved from Delhi to Bareilly, to Dibrugarh and from there to Lucknow, then to Prayagraj, Mirzapur, Vrindavan, thereafter back to Lucknow, from Lucknow she moved to Agra and has now come to Delhi. She has thus travelled to several cities after leaving the matrimonial home.

17. The fact that Mr. Chandan is still missing is a cause for serious concern. The habeas corpus petition has been filed by the mother of Mr. Chandan seeking his production. In view of the facts, which have emerged, both from various status reports, the interaction which the Court has made with all the parties and the IO's statement, it is clear that the whereabouts of Mr. Chandan are currently not revealed to anyone and would require further investigation. He was last seen with Mrs. S.

18. In addition, the IO has also brought to the notice of this Court that the email address/service "proton.me"/ "Proton Mail" provided by Proton AG, Switzerland being used by Mrs. S is banned in India. The said platform was allegedly being used for various unlawful activities, due to which it is stated to have been banned by the government. On being queried Mrs. S has informed the Court that she learned about the said email address/service through Google platform. This aspect would also need to be investigated as to how the said email address/service is still being made available for users in India given the same is banned.

19. The IO shall also inform the Ministry of Home Affairs (MHA), Ministry of Electronics and Information Technology (MeitY), and Department of Telecommunication (DoT) of the availability in India of



the said email address/ service i.e., ‘proton.me’/ ‘Proton Mail’, so that the said aspect can be looked into by the concerned authorities.

20. The Court has also seen the manner in which the children have interacted with the Petitioner-father i.e., Mr. Shashank Gupta. He is engaged in running his own business and is currently living with his parents, grandfather, and other relatives in his paternal house in East Delhi. The two minor children are quite comfortable with the father. His mother is stated to be available at home and she is a housewife. According to what has been submitted before the Court by the Petitioner-Mr. Shashank Gupta, as also by his father and grandfather, she is fully capable of taking care of the children.

21. On the other hand, in Mrs. S’s paternal house, only her father, brother and a sister, who is a working lady, are residing. Under such circumstances, considering the fact that the children are very young and while the investigation is going on, it is deemed appropriate to direct that the two minor children shall accompany the Petitioner-Mr. Shashank Gupta so that they can live with their father and the entire joint family, where they would be cared for by their paternal grandmother i.e., ‘dadi’.

22. The Petitioner-Mr. Shashank Gupta, his father and grandfather have assured the Court that they will take full care of the two minor children while they live in their home.

23. The SHO PS Jagat Puri shall send a lady constable at least twice daily to verify the well-being of both the minor children. The said lady constable will visit in civil clothes to the residence of Mr. Shashank Gupta. This arrangement shall continue till the next date of hearing.

24. If Mrs. S wishes to stay at her matrimonial home, considering the age of the younger child, she is permitted to do so. The Petitioner-Mr. Shashank Gupta



is directed to provide her with a separate room so that she can tend to the younger child, who may require her presence. If Mrs. S wishes her sister may accompany her to the matrimonial home. Mr. Shashank Gupta and his family have also assured the Court that they shall not ill-treat Mrs. S or any of her family members during their stay.

25. Ms. S's father or her family members are also permitted to meet the minor children at the Petitioner-Mr. Shashank Gupta's house whenever they wish to do so by giving at least two hours' notice to the said Petitioner.

26. The IO shall continue the investigation into the whereabouts of Mr. Chandan and any other aspect that may emerge in these two writ petitions. The status report after investigation shall be placed on record by the next date of hearing.

27. Considering the above position, Mr. Ahluwalia, lds. Counsel for the father of Mrs. S, under instructions and in the presence of Mrs. S, assures the Court that Mrs. S would fully cooperate in the investigation being carried out by AHTU, Shahadra, even if it involves travelling to various cities in order to trace the whereabouts of Mr. Chandan.

28. Further, the IO is directed to recover the case property i.e., jewellery etc., in possession of Mrs. S.

29. It is made clear that none of the bank lockers or bank accounts relevant to the investigation of the present cases shall be operated by any of the parties till the next date of hearing.

30. In the event that Mr. Chandan is traced before the next date of hearing, the State is permitted to mention the matter and produce Mr. Chandan before the Court.

31. Copy of the order be communicated to Secretary, MHA, Secretary, MeitY, and Secretary, DoT, through the ld. Standing Counsel for the Union of India to look into the issue relating to Proton mail."



13. Today, a status report dated 23rd October, 2024 has been filed by Mr. Sanjay Lao, Id. Standing Counsel (Crl.) in both the matters being, ***W.P.(CRL) 3190/2024 and W.P.(CRL) 2646/2024***. The same has been taken on record.

14. The said status report reveals various facts which were concealed from the Delhi Police as also from the Court by Mrs. S and also by the mother of Mr. Chandan, i.e., Ms. Runa Devi, who has filed the *habeas corpus* petition in ***W.P.(CRL) 3190/2024***.

15. It is stated in the status report that on 17th October, 2024, Mrs. S was interrogated about a certain call made from the reception of Hotel Basera Bridge Bhumi, Vrindavan, Mathura, after which she stated that the number belongs to Mr. Chandan's brother-in-law, Shiva and it was him who made Chandan talk to her on a conference call. It is alleged that Mrs. S had misled the police that Chandan's brother-in-law made her talk to Chandan on a conference call.

16. Mr. Chandan has appeared before the Court today. The said status report has revealed the extraordinary efforts that the Delhi Police had to put in tracing Mr. Chandan. Mrs. S has all along, as per the police, not revealed the true facts. In fact as per the status report she was in touch with Mr. Chandan on 15th October, 2024 through a borrowed sim card issued in the name of one Muskaan. Mr. Chandan also appears to have got issued a sim card in the name of one of his relatives, namely Murli Rai which he was using. The status report also reveals that Mr. Chandan was being harboured by his sister and brother-in-law- Mr. Shiva in Darbhanga, Bihar and this fact would have obviously been in the notice and knowledge of Ms. Runa Devi. The fact that Mr. Chandan was with his sister and brother-in-law has also been



admitted before the Court.

17. Mrs. S has also handed over gold jewellery of value approximately 16 lakhs which is now in the *malkhana*. There are various allegations and counter-allegations amongst the parties. Mr. Chandan was in fact found ordering various baby products for the children and clothing for Mrs. S and her children between 1st September 2024 to 13th September 2024, which he had also admitted to the police when he was confronted with the evidence.

18. From the overall facts it is revealed that the mother of Mr. Chandan, Ms. Runa Devi has filed the present *habeas corpus* petition to completely mislead the police as also this Court. Mrs. S also has not been candid with the Court even in the in-chamber interaction which was held on the last date of hearing, i.e., 15th October, 2024.

19. Accordingly, the Court has also satisfied itself as to the well-being of both the children who are currently with Mr. Shashank Gupta, i.e., the father and his family which is a joint family of the *dada-dadi* as also the great grandfather of the children. The Court has also met the children online on a video call today and is satisfied that the children should continue to remain with the father and his family members.

20. In view of the fact that all the persons who were stated to be missing in these matters have now been traced, i.e., the wife, Ms. Sakshi Gupta the two children and Mr. Chandan, no further orders are called for in these *habeas corpus* petitions.

21. Counsel for Ms. Runa Devi submits that she was not aware of the fact that Mr. Chandan was being harboured by her daughter and son-in-law- Mr. Shiva. Considering the facts revealed in the status report, the Court does not believe this version of Ms. Runa Devi.



22. The Delhi Police is free to take action against Mrs. S, Mr. Chandan and his family, in accordance with law, including registration of an FIR. If the mother-Mrs. S wishes to seek visitation or custody of the children, she is free to move an application before the appropriate Court.
23. The Delhi Police/MHA shall also look into the email address/service used by Ms. S i.e., '*proton.me*'/ "*ProtonMail*" which is allegedly provided by Proton AG, Switzerland as the same is stated to have been banned.
24. The Court records its appreciation for the Investigating Officer-Inspector Surender Sharma, AHTU, Shahdara District, Delhi, who has made incessant efforts in conducting the investigation in this case.
25. The petitions are accordingly disposed of.
26. Pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH
JUDGE

AMIT SHARMA
JUDGE

OCTOBER 23, 2024/sn/rks/sc