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

Date of decision:-9th September, 2024.

+ **W.P.(CRL) 2761/2024 & CRL.M.A. 27048/2024**

BHARAT KUMAR

.....Petitioner

Through: Mr. Sanjay Kumar, Adv. with
Petitioner in person.

versus

THE STATE NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Crl.) with Ms. Priyam Aggarwal &
Mr. Abhinav Kr. Arya, Advs. for State.

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 petition has been filed by Petitioner- Bharat Kumar under Article 226 of the Constitution of India read with Section 528 of Bhartiya Nagrik Suraksha Sanhita ('BNSS') seeking issuance of a writ in the nature of habeas corpus for the production of his wife Smt. Maya Devi, who is stated to be missing.
3. In the petition itself, the allegation is that Petitioner's wife was initially missing from 16th February, 2023 and the Petitioner has lodged the complaint with P.S. Ranhola on the same day. He thereafter filed an application under Section 156(3) Cr.P.C. In the said case, the Petitioner's wife was produced before the Court by the police and the statement of the wife- Smt. Maya Devi was recorded to the following effect:-



“I have left my matrimonial home of my own accord and free will due to the discord with my husband. I had written a letter and left it at the home and had gone on my own. At present, I am living at the aforesaid address and do not wish to live with my husband Bharat. Kindly allow me to live where I wish. I do not wish to accompany my husband. I state this without any fear, force or coercion.”

4. In view of the statement of the wife, the complaint was disposed of by the concerned Court on 11th May, 2023. The order passed by the Court on 11th May, 2023 reads as under:-

“Report received from DCP concerned produced as per which, on the basis of CDR analysis, missing person Smt. Maya Devi was traced from a P.G. situated in Matiyala.

Separate statement of Smt. Maya Devi is recorded wherein she submitted that she has left her matrimonial home of her own accord and free will due to the discord with her husband. She had written a letter and left it at the home and had gone on her own. At present, she is living at Matiyala and does not wish to live with her husband Bharat.

Heard. Perused.

Considering the submissions made, it appears that the missing person Smt. Maya Devi has left her matrimonial home of her own will and cannot be compelled to accompany her husband as she is a major as per law.

Accordingly, there is no merit in the present complaint. Application u/s 156(3) Cr.P.C. is dismissed as well as the complaint u/s 200 Cr.P.C. is dismissed and disposed off.

Smt. Maya Devi is free to live wherever she wishes.

File be consigned to Record Room.”

5. A perusal of the aforesaid statement and order makes it clear that the Petitioner’s wife was living in a Safety Home, Dada Bhaiya Marg, Janakpuri and she had categorically stated that she does not wish to live with her husband.



6. At the time when the said order was passed on 11th May, 2023, the Petitioner-husband was also present in the Court.
7. Today, the present petition has been filed on the ground that Petitioner's wife was again spotted with Respondent Nos. 4 and 5, who are stated to be some criminal elements. It is alleged that Respondent No.3 HC Amit Kumar is also involved with Respondent Nos. 4 and 5.
8. In the opinion of this Court, the Petitioner cannot be allowed to make such allegations. The wife of the Petitioner has categorically stated that she does not wish to go back with her husband. She has been missing since February, 2023 and was thereafter produced before the Id. Magistrate and has taken a clear position.
9. In such cases, in the opinion of this Court, the writ of *habeas corpus* would not be maintainable. If the Petitioner has any other remedy he can avail them in accordance with law.
10. The petition is disposed of accordingly. No further orders are called for.
11. Pending application(s), if any, also stands disposed of.

PRATHIBA M. SINGH
JUDGE

AMIT SHARMA
JUDGE

SEPTEMBER 9, 2024
nk/pr/bh