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**IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision:-9<sup>th</sup> September, 2024.*

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**W.P.(CRL) 2785/2024 & CRL.M.A. 27238/2024****SINDHU DEVI**

.....Petitioner

Through: Mr. Prashant Sharma, Mr. Sarthak Gupta and Ms. Atti Tyagi, Advocates alongwith petitioner in person.

versus

**STATE OF GOVT OF NCT & ORS.**

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel (criminal) for the State with Ms. Priyam Agarwal, Advocate.  
Vishal Meghwal, Advocate for Respondent No.2 (State of Rajasthan).

**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 has been filed by the Petitioner-Sindhu Devi under Article 226 of the Constitution of India, read with Section 528 of Bharatiya Nagarik Suraksha Sanhita ('BNSS') seeking production of her minor son before this Court.
3. The Petitioner's case is that she married Sh. Sandeep Kumar (*hereinafter, 'the husband'*) on 18<sup>th</sup> July, 2019 in Delhi, and was blessed with a son on 12<sup>th</sup> May, 2020. According to the Petitioner, she was thrown out of her matrimonial home in November 2021, and in April 2022, the husband handed over the custody of the minor son to the Petitioner.
4. According to the Petitioner, in January 2023, the husband took the



minor son to Alwar, Rajasthan from Delhi, and since then has kept the minor son away from the Petitioner, and has not allowed the Petitioner to meet the son. There are some allegations about the husband having ill-treated the Petitioner's daughter as well in August, 2023. In respect of this allegation, the Petitioner has filed an FIR bearing No. 83/2024 at P.S. Bindapur, Delhi, and the husband was arrested in the said case in March, 2024. He is currently stated to be out on bail.

5. The Petitioner thereafter filed an FIR bearing No. 85/2024 dated 9th April, 2024 at P.S. Pratapgarh, Alwar, Rajasthan, raising a complaint that the in-laws had kept her minor son forcefully in their custody. According to the Petitioner, despite repeated complaints, the minor son has not been produced. Hence, the present petition has been filed.

6. On the other hand, the State has handed over to the Court a status report dated 9th September, 2024, in which it is set out as under:-

*“IV. Regarding the custody of her minor son a case vide FIR number 85 of 2024, u/s. 363 IPC was registered at PS Pratapgarh, Alwar, Rajasthan on the complaint of petitioner in which she alleged that her in-laws kept her son forcefully. V. After completion of the investigation of case FIR number 85 of 2024 PS Pratapgarh, Alwar, Rajasthan closer/cancellation report of the said case has been filed and it is mentioned in the closure report that while the son of petitioner was only two months old, petitioner left the home and in this regard a missing report was lodged at PS Ranhola, Delhi and she was traced after one month. Later on the in-laws and husband of the petitioner returned back to their native place and petitioner started residing at Kiran Garden, Delhi. On 28.07.2023, petitioner along with her husband Sandeep came to the native place and resided there for 8-10 days and handed over their son to the in-laws of the petitioner.”*

7. As per the status report, the Petitioner had left the minor son with the



in-laws when he was merely two-months old. In fact, she had gone missing and was traced only after a month. The Petitioner, along with her husband, went back to Alwar for 8-10 days, and there she had handed over the minor son to the in-laws of the Petitioner. Ld. Counsel for the State of Rajasthan submits that a closure report has been filed in FIR No. 85/2024, as the investigation revealed that the Petitioner had left the minor son voluntarily with the grandparents, i.e., her in-laws. Let the status report be taken on record.

8. Ld. Counsel for the State of Rajasthan has also placed on record the order dated 23rd July, 2024 passed by the Civil Judge and Judicial Magistrate, Thanagazi, Alwar. The translated copy of the said order reads as under:

*“ Heard. The file was perused. The applicant has stated that the Investigation Officer, under the influence of the accused persons, did not take any action and did not take up any investigation in connection with the child and did not rescue him and did not give any opinion in this regard. On perusal of the file, it appears that the investigation officer has found misleading information in the FIR pertaining to this case. And it is stated that the complainant had left her son with her in-laws of her own free will. **It appears that the Investigating Officer has recorded the statements of Sindhu Devi, Manohar Lal, Kanaram and also interrogated the accused persons during the investigation. On perusal of entire file, the Court is of the opinion that the Police has conducted a detailed investigation and produced the findings therein before the Court. In connection with the statement of the complainant that the Investigation Officer has not rescued the child, this Court is of the view that the question of rescue of the child does not arise at all because the Investigation Officer has found the child to be with his grandparents during the investigation.** The complainant has also stated that the*



*investigating officer has not recorded the statement of the child, so in this regard; the facts recorded in the file reveal that the child is a minor (toddler). In such a case, it appears that a detailed investigation has been carried out by the Police and since the application filed by the applicant is not reasonable, the Court does not find it just to intervene in the matter at this stage. Therefore, the application filed by the applicant/complainant is rejected and dismissed. Order pronounced. File regarding presentation of Protest petition be presented on 09.09.2024.”*

9. Under such circumstances, since the Petitioner’s identical grievance in FIR No. 85/2024 has been considered by the Civil Judge and Judicial Magistrate, Thanagazi, Alwar, Rajasthan and the report of the police authorities therein is that the Petitioner had left the minor child voluntarily with her in-laws, this Court is not inclined to entertain the present habeas corpus petition.
10. The Petitioner’s remedies, in accordance with law, for seeking custody of the minor child are left open.
11. In view of the above, the present petition is dismissed.
12. Pending application(s), if any, also stand disposed of.

**PRATHIBA M. SINGH**  
**JUDGE**

**AMIT SHARMA**  
**JUDGE**

**SEPTEMBER 09, 2024/sn/pr/dn**