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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 17<sup>th</sup> December, 2024*+ **W.P.(CRL) 3917/2024 & CRL.M.A. 37860/2024****JYOTI SHARMA**

.....Petitioner

Through: Mr. Rohit Singh, Mr. Mohit Saini, Mr. Sujit Kumar, Mr. Vikram Singh Nayal, Mr. Prince Kumar & Ms. Kanika Saini, Advs. (M- 9643633336).

versus

**STATE OF NCT OF DELHI & ORS.** .....Respondents

Through: Mr. Sanjay Lao, Standing Counsel (Crl.) for State with Ms. Priyam Aggarwal & Mr. Abhinav Kr. Arya, Advs. with Insp. O.P. Vishnoi, SI Arti Singh, P.S. Najafgarh. Mr. Dhan Mohan, Ms. Tanu B. Mishra, Ms. Tanisha Bhatia, Ms. Nikits Jha, Mr. Satyajeet Sharma, Advs. for R-4 to 7 (M- 9811180987).

**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 the Petitioner-Jyoti Sharma under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarika Suraksha Sanhita, 2023 seeking issuance of a writ of *habeas corpus* for production of her daughter, Ms. R, who was born on 21<sup>st</sup> August, 2023 out of her wedlock with Mr. Abhishek Sharma/ Respondent No.4.
3. The case which has been set out in the petition is that the Petitioner was



married to Respondent No.4 on 11<sup>th</sup> June, 2022. However, thereafter, she alleges to have been tortured by the family of her husband *i.e.* Respondent Nos. 4 to 7. There are also allegations of dowry demands been made.

4. It is stated that the Petitioner left the matrimonial home due to the aforesaid reasons. However, she came back to her matrimonial home on 19<sup>th</sup> October, 2024 but was not permitted to meet her daughter. Hence, this petition.

5. Upon advance copy being served, Mr. Sanjay Lao, learned Standing Counsel has appeared and has filed a status report dated 17<sup>th</sup> December, 2024 which reveals a completely different picture. As per the status report, which has been filed, the Petitioner had left her matrimonial home on 10<sup>th</sup> January, 2024 and a missing complaint in respect of the whereabouts of the Petitioner was filed by the husband/Respondent No. 4 in P.S. Najafgarh *vide* DD No. 48A on 11<sup>th</sup> January, 2024.

6. Pursuant to the said complaint, the concerned police officials along with the Petitioner's brother and mother-in-law *i.e.*, Abhishek's mother (Respondent No. 4's mother) left Delhi to reach Mumbai as they received information that the Petitioner was in Mumbai. Thereafter, the Petitioner was traced to the Hotel Celeste and was found to be living with another boy, Sachin.

7. Statements of the Petitioner and the friend with whom the Petitioner was found to be living with in Mumbai have been recorded. Photographs which were captured when the Petitioner and the boy Sachin were traced to the hotel in Mumbai, have also been produced.

8. A perusal of the statements recorded by the Police, of the Petitioner and the boy Sachin, would show that the Petitioner had left the matrimonial home



voluntarily and had decided to stay in Mumbai. Even the said boy has made a statement that the Petitioner wanted to settle down in Mumbai and he was helping her in that regard.

9. None of these facts have been stated in the present *habeas corpus* petition. A *habeas corpus* petition is meant for assisting citizens when there are genuine issues with respect to missing children or where the safety and security of any person is under threat. The facts of the present case do not disclose such a scenario. Such a petition is being misused by litigants like the Petitioner, who are merely trying to bring their matrimonial disputes by way of a *habeas corpus* petition to Court that too without disclosing the true facts.

10. The Petitioner is present in person before this Court with her Counsel. The learned Counsel for the Petitioner submits that he was not fully aware of all these facts. A copy of the status report has been handed over to the Petitioner. The Petitioner herself does not dispute any of the facts stated in the status report dated 17th December, 2024.

11. Further, as per the status report, a custody petition has also been filed by the husband/Respondent No. 4 in which summons have been issued to the Petitioner. The Petitioner however has not yet appeared in the matter, though the same is stated to have been served to the Petitioner's father.

12. Further, Mr. Dhan Mohan, Advocate has appeared for the husband/Respondent No. 4 and has submitted that the child is safe in the custody of the father (Respondent No. 4) and the paternal grandparents.

13. The prayer which has been made today by the Petitioner for visitation with the child may be made before the concerned Family Court in Dwarka, in case G.P. No. 54/2024.

14. At this stage, learned counsel for the Petitioner submits that the



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Petitioner had met her daughter on 21<sup>st</sup> August, 2024, which was her birthday. This fact has also not been mentioned in the petition and an impression is sought to be given that the whereabouts of the daughter are not known.

15. The present petition is an abuse of the process of law and the same is dismissed with costs of Rs. 10,000/- to be deposited with the Delhi High Court Legal Services Committee by the Petitioner within 2 weeks from today.

16. The latest address of the Petitioner may be given to the husband/Respondent No. 4 through the concerned Investigating Officer.

17. Pending applications, if any, also stand disposed of accordingly.

18. Copy of this order be sent to the Secretary, DHCLSC for following up payment of costs from the counsel. If the costs is not deposited, a note shall be put up through the Registry before the Court.

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

**AMIT SHARMA**  
**JUDGE**

**DECEMBER 17, 2024/nk/rks**