

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 6 of 2024

Petitioner :- Vaishali Mishra Thru. Her Next Friend Ashish Kumar

Respondent :- State Of U.P Thru. Prin. Secy. Civil Sectr. Home Deptt. And 4 Others

Counsel for Petitioner :- Rajiva Dubey

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

1. Heard Shri Rajiva Dubey, learned Counsel for the petitioner, Shri Ashok Kumar Singh, learned A.G.A-I for the State-respondent No.1 and 2 and perused the material placed on record.

2. This Habeas Corpus Writ Petition has been filed on behalf of Vaishali Mishra through her next friend Ashish Kumar with following main prayers:-

"i. to issue a writ in the nature of Habeas Corpus, commanding opposite parties No.3 to 5 to produce the detenue/petitioner before this Hon'ble Court and to pass appropriate order for her release after recording her statement who has been illegally detained by opposite parties Nos.3 to 5 in the petitioner's house situated in Mohalla-Ayodhyapuri, City-Lakhimpur, Police Station-Kotwali Sadar, District-Lakhimpur Kheri and set her free.

ii. to issue any other writ, order or direction in favour of the petitioner as this Hon'ble Court may deem fit and appropriate in the nature and circumstances of the case.

iii. to allow this writ petition with costs."

3. Learned Counsel for the petitioner submits that detenue, namely-Vaishali Mishra aged about 29 years resident of Mohalla-Ayodhyapuri, City-Lakhimpur, Police Station-Kotwali Sadar, District-Lakhimpur Kheri, who is residing in the same house with her real brother and real uncle i.e. respondent No.3 and 4 and as per the case set up by the petitioner, the detenue has been kept under illegal detention. It is also alleged that respondent No.5 is the real maternal uncle of the detenue. He further submits that the detenue, namely-Vaishali Mishra is a major girl and as per her educational certificates her date of birth is 01.06.1994 and has completed her education in Bachelor of Science (B.Sc.) and Bachelor of Education (B.Ed.).

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4. Learned Counsel for the petitioner submits that this writ petition has been filed by Ashish Kumar, the next friend of detinue, namely-Vaishali Mishra. He further submits that there is love affair between the detinue and the petitioner, namely-Ashish Kumar since 2011 and they want to marry each other but the family members of the detinue are not ready for their marriage, this averment finds mention at paragraph No.9 of the affidavit filed in support of the present petition. He further submits that detinue, Vaishali Mishra and Ashish Kumar used to meet regularly and some photographs have also been annexed as Annexure No.4 with this writ petition. He further submits that the detinue is under illegal detention in her house with her real brother and real uncle and they are not allowing her next friend, namely-Ashish Kumar to meet her as he wants to marry the detinue, thus, this writ petition has been filed with aforesaid prayers and interference by this Court is necessary in the matter.

5. On the other hand, Shri Ashok Kumar Singh, learned A.G.A-I for the State-respondent No.1 and 2 have opposed the submissions advanced by learned Counsel for the petitioner, namely-Ashish Kumar and submits that except some photographs and one letter allegedly written by the detinue-Vaishali Mishra no other document has been annexed with this petition to show that the detinue and the petitioner, namely-Ashish Kumar are in relationship or they have love affair between them and they were going to solemnize marriage with each other. He further submits that as per the averments made in this petition, the detinue and the petitioner, namely-Ashish Kumar were in relationship since 2011 and this petition has been filed in the year 2024 but they have not yet solemnized the marriage even after 13 years of their alleged relationship, thus, it appears that the entire story as narrated by the petitioner, namely-Ashish Kumar is false and fabricated only with the intention to defame the image of the detinue and her family members in the society, the next friend of the petitioner wants to take advantage of the order of this Court. He further submits that letter which has allegedly being written by the detinue appears to be forged and fabricated and apart from the said letter no other complaint was ever made by the detinue before any competent authority, which also demolishes the case of the petitioner, namely-Ashish Kumar, thus, he submits that the matter is very serious and no interference by this Court is required in the instant matter.

6. Learned A.G.A-I for the State-respondents also submits that we live in a society, which does not permit us to live or make relationship in the form, which has been narrated in the present petition. He further submits that the case of the petitioner,

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namely-Ashish Kumar is nothing but is a ploy to defame the image of the detenue and her other family members so that the family members of the detenue under pressure and fear of insult may compromise the situation, thus, this petition may be dismissed with heavy costs so that in future nobody tries to take advantage of this Court in such type of situations.

7. After considering the arguments of learned Counsel for the parties and after perusal of the material placed on record, this Court is satisfied with the argument made by learned A.G.A-I for the State-respondents and express its opinion that the averments made in this petition are nothing but a ploy to defame the image of the detenue as well as her family members, the Court is also not satisfied with the photographs as they appear to be manufactured and tempered, further, no document has been annexed with this petition, which shows that there is any affiliation or affection between the detenue and the petitioner, namely-Ashish Kumar. The letter which has allegedly being written by the detenue appears to be forged and fabricated as the entire letter has been written in Hindi language but the signature and address in the said letter has been written in English language that creates a doubt in the mind of the Court, the said letter has been annexed with this petition only to create an impression that the detenue is willing to live with the petitioner, namely-Ashish Kumar and she has been detained illegally by her family members and apart from the said letter there is nothing on record to demonstrate this fact that the detenue had made any complaint to any competent authority about her alleged illegal detention as claimed by the petitioner. Further, it is not in dispute that the detenue is a major girl aged about 29 years and she knows her welfare very well and the petitioner, namely-Ashish Kumar is aged about 32 years as per the averments made in this petition.

8. Further, if both of them were in love affair since 2011 and this petition has been filed in the year 2024, there is no plausible explanation on the part of the petitioner, namely-Ashish Kumar as to who has stopped them from marrying each other for the last 13 years, thus, argument of learned Counsel for the petitioner has no force that the family members of the detenue are restraining them marrying each other. Further, it is also observed here that in the entire writ petition there is no averment that the detenue and the petitioner, namely-Ashish Kumar were in a live-in relationship, thus, this Court finds that the argument advanced by learned Counsel for the petitioner, namely-Ashish Kumar is made only with the intention to get some order in favour of the petitioner, namely-Ashish Kumar from this Court.

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9. Accordingly, this Court does not find any justification to entertain this type of petition and to frustrate this type of petition filed by any such person in future only with the intention to defame the image of a girl or her family members, who are living in a society and if the Court entertains this type of petition, the image and reputation of family members as well as of the girl will certainly be demolished and it will be very difficult for a family who has been roped in these type of cases to solemnize the wedding of their girl in future to any other family of their choice.

10. Further, this Court is of the view that we are not living in a western country, where this type of relationship is very popular and common among the citizens, We live in country, where people believe in culture and traditions, which is the crown of our country and we are proud of it, therefore, we have to respect the traditions and culture of our country. Coming to the case of the petitioner, namely-Ashish Kumar, which is nothing but a ploy to defame the image of the detinue and her other family members so that the family members of the detinue under pressure and fear of insult may compromise the situation.

11. Thus, in view of the above, the present petition is **dismissed** with a cost of Rs.25,000/- (Rupees Twenty Five Thousand Only). The said amount of cost shall be paid by the petitioner, namely-Ashish Kumar, son of Sri Prem Praksh, resident of Village-Futha, Police Station-Bheera, District-Lakhimpur Kheri which shall be deposited before the District Magistrate, Lakhimpur Kheri within one month from today, thereafter, the District Magistrate, Lakhimpur Kheri is directed to pay the said amount, so deposited by the petitioner, namely-Ashish Kumar to the corpus, namely-Vaishali Mishra, daughter of Late Sri Alok Mishra, resident of Mohalla-Ayodhyapuri, City-Lakhimpur, Police Station-Kotwali Sadar, District-Lakhimpur Kheri within one month after the said amount is deposited before it. In case, the said amount is not deposited before the District Magistrate, Lakhimpur Kheri within the stipulated time, the District Magistrate, Lakhimpur Kheri is directed to recover the said amount from the petitioner, namely-Ashish Kumar as an arrear of land revenue and pay the said amount to the detinue, namely-Vaishali Mishra for damaging her image in the society.

12. Let a copy of this order be transmitted to the Senior Registrar of this Court, who shall communicate the same to the District Magistrate, Lakhimpur Kheri for necessary compliance forthwith.

Order Date :- 11.1.2024

Piyush/-