

Court No. - 51

Case :- HABEAS CORPUS WRIT PETITION No. - 3047 of 2018

Petitioner :- Sonam(Corpus) And Another

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Sudhanshu Pratap Singh

Counsel for Respondent :- G.A.

Hon'ble Vipin Sinha,J.

Hon'ble Mahboob Ali,J.

Heard learned counsel for the petitioners, Sri Y.K. Tripathi, learned counsel for respondent no. 5 and learned A.G.A. for the State.

In compliance of the order of this Court dated 12.04.2018, corpus - Sonam has been produced before this Court from Nari Niketan, Moradabad in police custody by lady constable no. 1311 Renu and constable no. 569 Vivek Pal.

We have also perused the statement of the corpus recorded under Section 164 Cr.P.C., contents of which are self explicit.

Corpus Sonam has identified the petitioner Ankit Giri as her husband, who in turn identified the corpus as his wife.

Learned counsel for the petitioner has identified the petitioner as well as corpus on the basis of documents produced before him in his chamber.

The Court has examined corpus -Sonam who has made a statement before this Court that even though her age is more than 17 years as per high school certificate being date of birth 08.07.2000 and as per medical examination report she is about 17 years, copies of which have been annexed with the writ petition, however, she is at present aged about 18 years. Corpus also informed the Court that she has married with the petitioner, namely, Ankit Giri who is present before this Court today. She further informed the Court that she married with the petitioner without any pressure, threat or coercion and they are entitled to live happily as husband and wife. Corpus has made a statement before this Court that though she has been brought to this Court today from Nari Niketan, Moradabad but now she wants to go back with her husband i.e. Ankit Giri who is present before this Court today and she does not want to go back with her parents.

Attention of the Court has been drawn to the medical examination report of the corpus, as per which she is about 17 years, copy of which has been annexed as annexure no. 6 to the writ petition and the corpus has reached the age of discretion.

In view of the categorical statement made by the corpus before this Court today and also keeping in view the law as laid down by the Apex Court in the case of ***Suhani & Another v. State of U.P. & Ors. passed in civil appeal no. 4532 of 2018 decided on 26.04.2018***, the Court has been left with no option but to allow the petition and release the corpus in favour of the petitioner.

Accordingly, the writ petition is allowed and the order dated 16.02.2018

passed by S.D.M., Amroha is hereby quashed. The corpus Sonam is released from the custody of Nari Niketan, Moradabad and she is set at liberty forthwith. However, it is made clear that no hindrance will be caused in the movement of the corpus and she is free to move from this Court along with her husband i.e. the petitioner wherever she wants to go.

Respondent no. 5 and the other family members of the corpus are hereby restrained from interfering in any manner with the living together of the petitioner and the corpus as husband and wife and in case any hindrance is caused or any threat is extended to them by respondent no. 5 and the other family members, liberty is given to the petitioner and the corpus to file an appropriate application before the concerned SP/SSP and in case such an application is filed, the concerned SP/SSP shall personally look into the matter and take necessary remedial measures in this regard keeping in view the life and interest of the petitioner and the corpus.

With the aforesaid direction, the writ petition is allowed.

Let a copy of the order be communicated to the office of Government Advocate who after receipt of the order shall forward the same to the concerned SP/SSP through the office of the Government Advocate, who shall take appropriate action in this regard.

Order Date :- 16.5.2018

Anand