

(2021) 12 DEL CK 0001

In the Delhi High Court

Case No : Criminal Writ Petition No. 458 Of 2021

Gayatri Devi

APPELLANT

Vs

State Of Nct Of Delhi & Ors

RESPONDENT

Date of Decision : 01-12-2021

Acts Referred:

Constitution Of India, 1950 — Article 226
Indian Penal Code, 1860 — Section 365

Citation : (2021) 12 DEL CK 0001

Hon'ble Judges : Siddharth Mridul, J;Anup Jairam Bhambhani, J

Bench : Division Bench

Advocate : C.S.S. Tomar, Sanjay Lao

Final Decision : Disposed Of

Judgement

Anup Jairam Bhambhani, J

1. The present petition under Article 226 of the Constitution of India has been filed by Smt. Gayatri Devi seeking a writ in the nature of habeas corpus against official respondents Nos. 1, 2 and 3, namely the State of NCT of Delhi, the Police Commissioner, Delhi and the SHO, P.S.: Kalyanpuri respectively, to search, trace-out and produce her missing daughter, Lakshmi, who is stated to be missing since 16.12.2019. The petitioner has also alleged that her daughter is missing at the instance of respondent No. 4, one Kamlesh Kumar s/o Balbir, who the petitioner suspects has abducted, tortured and killed her daughter by reason of the fact that the daughter had spurned his advances.

2. Notice in this matter was issued to the official respondents vidé order dated 01.03.2021, whereupon the official respondents have filed status reports dated 18.03.2021, 29.05.2021 and 17.07.2021, the last of which is authored by Ms. Priyanka Kashyap (IPS), Deputy Commissioner of Police, East District, Delhi.

3. As recorded in the various status reports, the Delhi Police have been unable to trace the missing girl.

4. In her reply of September, 2021 filed in response to status report dated 17.07.2021, it is the petitioner's contention that the inability to trace her daughter is a failure on the part of the Delhi Police; and the petitioner has requested that the investigation in the matter be transferred to some other specialised agency. However, upon a perusal of status report dated 17.07.2021, we find that inter alia the Delhi Police have taken the following steps in compliance of their Standing Order No. 252 of 2019 dated 18.07.2019 to trace the petitioner's missing daughter:

a) An FIR bearing No. 566/2019 dated 21.12.2019 was registered under section 365 of the Indian Penal Code, 1860 at P.S.: Kalyanpuri, whereupon an investigation in the matter was initiated;

b) In compliance of Standing Order No. 252 of 2019, WT Message was flashed; Missing Persons Form was filed; photo and details of the missing girl were uploaded on ZIPNET; information was shared with the National Crime Records Bureau, the State Crime Records Bureau and the Central Bureau of Investigation, and a photo of the missing girl was also sent for publication in local newspapers;

c) Since it was the petitioner's case that her daughter was last seen with Kamlesh at the DND Flyover and it was the petitioner's assertion that her daughter had jumped-off the flyover into the river along with Kamlesh, a search for the missing girl was conducted in the Yamuna river using a steamer and divers, but only Kamlesh was found and saved by divers, and the petitioner's daughter was not found;

d) The suspect Kamlesh was interrogated, and was subsequently also put through a Polygraph Test, which test however, affirmed that there was no deception in his responses and statements;

e) Kamlesh's father Balbir Singh s/o Nannu Ram and Yogesh s/o Ram Vilash Malahar, who collects coins from the Yamuna river, were also interrogated; who also confirmed Kamlesh's version of the events;

f) The Police have further interrogated Narender s/o late Chhote Lal, who is Kamlesh's brother-in-law and owner of the motorcycle on which the missing girl and the suspect were stated to have gone to the DND Flyover; Vinod s/o Hari Shankar; Pramod s/o Balbir Singh and Aazad s/o Mehak Singh, who are the other relatives and friends of suspect Kamlesh, but to no avail;

g) The Police have further confirmed that on receiving PCR calls on 16.12.2019 itself, they also called in the National Disaster Response Force (NDRF), the Fire Brigade and the staff of Boat Club (DM East) and searched for the missing girl up to 3-4 miles in the river, but without success. The details of other persons involved in the search operations have also been given in the status reports;

h) The Police also exercised efforts to look for the missing girl at the ISBT Sarai Kale Khan, New Delhi and also issued Hue-and-Cry Notices, which were posted in and around the bus terminal;

- i) The Police have also looked for the missing girl at the mortuary of the LNJP Hospital and the Lady Hardinge Hospital, New Delhi, but with no success;
 - j) The Police have further checked the CCTV footage of the cameras installed on the DND Flyover but have been unable to find any useful clues;
 - k) It is recorded in the status reports that the CDRs of the mobile numbers that were used by the missing daughter and suspect Kamlesh, were also obtained and analysed;
 - l) The Police have also searched for the missing girl in Uttar Pradesh, with the cooperation of the Staff of P.S.: Phinahat;
 - m) Lastly, the Police have also conducted a Layered Voice Analysis test of suspect Kamlesh on 05.07.2021 at FSL, Sector 14, Rohini; and report dated 13.07.2021 thereof has opined that no deception is indicated in the suspect's voice when he reveals the sequence of events of the fateful day.
5. On an overall view of the matter, including the steps taken by the Delhi Police to trace the missing girl, we are of the opinion that sufficient and sincere efforts have been made by the Delhi Police thus far to locate the petitioner's missing daughter. The Delhi Police have also assured us that they are keeping the case open, and efforts to search for the missing girl will continue.
6. However, we see that no purpose in keeping the present writ petition pending, since no further directions are called for in the matter.
7. Accordingly, we dispose of the present writ petition with the direction to the Delhi Police to continue sincere and serious efforts to locate the petitioner's daughter at the earliest and to produce her before the court of the concerned Metropolitan Magistrate, being the learned Metropolitan Magistrate having jurisdiction over P.S.: Kalyanpuri, Delhi; and in the meantime, to file status reports detailing the steps taken in the investigation of FIR No. 566/2019 dated 21.12.2019 once every 03 (three) months commencing January 2022. A copy of the status reports filed be also furnished to the petitioner, through her counsel.
8. The learned Magistrate shall be entitled to pass such other or further orders as may be deemed necessary or proper, based upon the status report so filed, and to deal with the matter in accordance with law.
9. The petitioner shall be at liberty to invoke such other remedies, as may be available to her, in accordance with law.
10. The writ petition is disposed of in the above terms.
11. Pending applications, if any, also stand disposed of.