
(2012) 01 AHC CK 0739

In the Allahabad High Court

Case No : Habeas Corpus Writ Petition No. 7229 of 2011

Kumari Munesh And Anr

APPELLANT

Vs

State Of U.P. And Others

RESPONDENT

Date of Decision : 13-01-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164
Penal Code, 1860 (IPC) — Section 323, 504, 506

Citation : (2012) 01 AHC CK 0739

Hon'ble Judges : Arvind Kumar Tripathi, J

Bench : Single Bench

Advocate : M.K. Rajpal, for the Appellant; Govt. Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Hon"ble Arvind Kumar Tripathi, J.—Heard learned counsel for the petitioners, learned AGA for the State and perused the record. The present habeas corpus petition has been filed on behalf of Sushree Munesh minor daughter of Om Prakash through her father petitioner no.2, Om Prakash.

2. Learned counsel for the petitioners submitted that according to school certificate she was minor and aged about thirteen and half years. She was kidnapped by Ajay Kumar Gupta, respondent no.2 and as per information she was handed over to respondent no.3 Sunil Singh. The first information report was lodged and registered at P.S. Java, District Aligarh at case crime no.540 of 2010. However, petitioner no.1, Km. Munesh has not been recovered as yet. The respondent no.2 is harden criminal. In spite of FIR as well as complaint to higher authority no effective step has been taken for recovery of the victim Km. Munesh hence the present habeas corpus petition has been filed.

3. On 7.3.2011, the direction was issued for production of petitioner no.1, Km. Munesh, however, there was a direction for deposit of Rs.5,000/-by way of bank draft. According to learned counsel for the petitioner, petitioner no.2 being poor

could not collect the amount for preparation of the demand draft hence application was moved for extension of time. The time was extended on 9.9.2011. Even though within time he could not deposited the draft. Now any how he collected the amount and get the draft prepared.

4. Learned counsel for the petitioners and learned AGA informed that earlier writ petition of civil nature as well as criminal nature was filed in which interim order was passed in favour of respondent Ajay Kumar Gupta. In Criminal Misc. Writ Petition No.479 of 2011 his arrest was stayed till the next date of listing or till submission of charge-sheet. However, there was a direction that he should fully cooperate with the investigation and shall appear as and when called upon to assist the investigation. If there was no cooperation or assistance in the investigation by the respondent nos.2 and 3 the step should have been taken by the Investigating Officer through State counsel to get the interim order vacated. It was also informed that counter affidavit has already been filed.

5. Learned AGA further informed that one complaint was filed by petitioner no.1, Km. Munesh against her father petitioner no.2 in case no.164 of 2011, u/s 323, 504, 506 IPC pending in the court of C.J.M., Baghpat in which averment was that she has already married and there is a harassment by her father.

6. Whether she is minor and whether there was any marriage or not, these facts are required to be investigated by the I.O. and these fact can be ascertained after her recovery on the basis of material regarding her majority as well as on the basis of her statement by the I.O. and before the Magistrate, concerned. Hence, it is expected that if she has already not been produced before the Magistrate, concerned and her age has not been ascertained, the S.S.P., Aligarh will look into the matter personally to get the petitioner recovered as expeditiously as possible and to get her produced before the Magistrate, concerned for recording her statement u/s 164 Cr.P.C., after ascertaining her age. Thereafter, I.O. will proceed in accordance with law.

7. The petitioner is not required to deposit the aforesaid draft.

8. With these observations, present habeas corpus petition is disposed off finally. Let a copy of this order be supplied to learned AGA, free of cost, for follow up action.