
(2014) 02 UK CK 0020

In the Uttarakhand High Court

Case No : Habeas Corpus Writ Petition No. 7 of 2014

Sanjay Pal

APPELLANT

Vs

State of Uttarakhand

RESPONDENT

Date of Decision : 15-02-2014

Acts Referred:

Citation : (2014) 1 UC 621

Hon'ble Judges : Brahma Singh Verma, Acting C.J.; Serves Kumar Gupta, J

Bench : Division Bench

Final Decision : Disposed Off

Judgement

Brahma Singh Verma, Actg. C.J.

1. By means of this writ petition, the petitioner has following relief:-

i) Issue a writ, order or direction in the nature of Habeas Corpus commanding the respondent No. 6 to deliver the custody of the detainee to the petitioner, forthwith.

ii) To call for the records of the proceeding before the respondent No. 2/learned CJM Champawat and respondent No. 3/SDM Tanakpur.

iii) To issue a writ, order or direction to give directions to the respondents to take necessary steps for protection of the petitioner and the detainee and in case the Hon'ble Court pleases to pass order for release of the detainee to the custody of the petitioner, it may also be pleased to direct the police to drop the petitioner and the detainee safely at their home.

iv) The Hon'ble Court may further graciously be pleased to take strict action against the respondent No. 3 for making illegal detention of the detainee and against the respondent No. 7 for lodging false FIR against the petitioner and threatening him and against the respondent No. 2 for abusing the processing of law.

v) The Hon''ble Court may further be pleased to direct each of the respondent Nos. 2, 5 and 7 to pay Rs. 1,00,000/- as compensation for the illegal detention of the detenue and for harassment of the petitioner and the detenue.

vi) Any other writ, order or direction, which this Hon''ble Court, in the interest of justice and under the circumstances of the case, may deem fit and proper.

vii) Award the cost of the petition to the petitioner.

2. On 12.2.2014, this Court had directed respondent No. 6 to produce Ms. Swati Rawat before this Court on 15.2.2014. In compliance of this Court's order dated 12.2.2014, respondent No. 6 has produced Ms. Swati Rawat before this Court.

3. Today, one application has been filed by the grandfather of Ms. Swati Rawat, through Mr. D.S. Patni, Advocate. Although counter affidavit was not called but respondent No. 7, who is grandfather of Ms. Swati Rawat, has filed a short counter affidavit, stating that the alleged date of marriage has been shown wrong and that the marriage was not registered. Certificates filed by the petitioner in support of marriage are also forged. Therefore, Ms. Swati Rawat be not sent with the petitioner.

4. Having heard the learned counsel for the parties, we have asked Ms. Swati Rawat as to whether she has solemnised marriage with the petitioner or not. This fact is not disputed by respondent No. 7 also that Ms. Swati Rawat is major. Before us, Ms. Swati Rawat has stated that she wants to go with the petitioner (husband). According to her, their marriage was solemnised on 19th January, 2012, and was registered before the Registrar, Hindu Marriage on 21st January, 2014, in Chandosi.

5. After considering the statement given by Ms. Swati Rawat and also the fact that she has attained the age of majority much before, we release the custody of Ms. Swati Rawat and permit her to accompany with her husband, who is present in the Court. That apart, we also direct respondent No. 6-Superintendent Nari Niketan, Haldwani, District Nainital to make the necessary endorsements in the record. We also direct S.S.P. Champawat and S.H.O. Kotwali Tanakpur, District Champawat to provide adequate necessary protection to the petitioner and Ms. Swati Rawat, if they ask for.

6. With the aforesaid observation and direction, the writ petition is disposed of finally.

7. At the request of Ms. Swati Rawat, let certified copy of the order be issued to the learned counsel for the parties, today itself, on payment of usual charges.