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**(2012) 10 AHC CK 0065**  
**In the Allahabad High Court**  
**Case No : C.M.H.C.W.P. No. 42114 of 2012**

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|------------------------------------|------------|
| Smt. Meenakshi @ Pinki and Another | APPELLANT  |
| Vs                                 |            |
| State of U.P. and Others           | RESPONDENT |

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**Date of Decision :** 09-10-2012

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 151  
Penal Code, 1860 (IPC) — Section 264

**Citation :** (2013) 1 ACR 877

**Hon'ble Judges :** Ravindra Singh, J;Anil Kumar Agarwal, J

**Bench :** Division Bench

**Advocate :** V.P. Gupta, for the Appellant; Rajiv Sisodia, A.G.A., for the Respondent

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## Judgement

Ravindra Singh, J.—Heard Sri V.P. Gupta, learned counsel for the petitioners, learned A.G.A. for the State of U.P. and Sri Rajiv Sisodia, appearing on behalf of respondent No. 4 Vijai Pal Singh. This Habeas Corpus Writ Petition has been filed on behalf of Smt. Meenakshi @ Pinki by petitioner No. 2 Tek Chandra with the prayers:

- (1) Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 21.7.2012 passed by respondent No. 2 (Annexure-3 to the writ petition).
- (2) Issue a writ, order or direction in the nature of habeas corpus directing the respondent No. 3 to produce the corpus before this Hon'ble Court and set him free on her own desire.
- (3) Issue any other writ, order or direction in favour of the petitioner, which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.
- (4) To award the cost of the present writ petition to the petitioner.

2. The facts of this case is that an F.I.R. has been lodged by Bal Kishan on 22.6.2012 at 8.05 p.m. in respect of the incident allegedly occurred on 22.6.2012 at about 6.30 p.m., it has been lodged against Sri Chandra, Jai Chandra sons of Atar Singh, Manoj brother in law of Sri Chandra, Narendra, Vijay Singh and driver of Qualis Vehicle u/s 264, I.P.C. alleging therein that his son Tek Chandra, petitioner No. 2 was forcibly taken away by the above mentioned accused persons, his son Tek Chandra was abducted because they were having suspicion of abduction of Km. Meenakshi. Tek Chandra was working at the house of Vijay Pal Singh, the father of the corpus for the last many years, he was residing at his house also, due to which he developed relationship with corpus Meenakshi, about 2 months prior to the lodging F.I.R., Meenakshi was taken away by him but she was taken back from Delhi and she was handed over to her family members. About one month prior to lodging the F.I.R., the corpus Meenakshi has been married with Narendra, the corpus Meenakshi left her sasural and had gone to some unknown place. The corpus was recovered by the police and all the accused persons sent to jail. The petitioner No. 2 was also challaned u/s 151, Cr. P.C. The corpus was sent to Nari Niketan Moradabad. Thereafter, the petitioner No. 2 and mother of petitioner No. 1 moved an application before the S.D.M., Hasanpur for releasing the petitioner in their favour, on those applications, both the parties and petitioner No. 1 were summoned by S.D.M., Hasanpur who recorded the statement of corpus on 21.7.2012 in which she stated that she was aged about 19 years, she was an educated girl, she had passed High School Examination, in the mark-sheet the date of birth 1997 was mentioned, she was having the physical relationship with Tek Chandra. Tek Chandra was belonging to Saini caste and she was belonging to Chauhan caste. She remained alongwith Tek Chandra in Delhi for about a month. Her family members have developed the pressure upon the family members of Tek Chandra then she and Tek Chandra came from Delhi. She did not want to go with her parents, she had performed the marriage with Tek Chandra in a temple of Delhi. The marriage certificate was also issued from the temple, the same has been torn by her family members. She wanted to go with Tek Chandra. She was having the pregnancy of three months. She further stated that her date of birth is of year 1995. The S.D.M., Hasanpur passed the order dated 21.7.2012 by which she was sent to Peevishly/Nari Niketan, Moradabad. According to the order dated 21.7.2012 the date of birth of the corpus was 10.12.1995 recorded in the mark-sheet issued by Lala Satya Prakash Saraswati Vidya Mandir, Hasanpur. There was apprehension of breach of peace, on account of the custody of the corpus and the corpus was about 17 years that is why she was sent to Nari Niketan.

3. It is contended by learned counsel for the petitioner that the corpus had performed the marriage with petitioner No. 2 Tek Chandra, she remained in his company at Delhi and she developed the physical relationship with him with her free will and consent and she wanted to go in the company of her husband Tek Chandra, she is major and she is pregnant. Her detention in Nari Niketan is

illegal, she may be released forthwith from Nari Niketan and she may be given in the custody of petitioner No. 2 Tek Chandra who is her natural guardian being her husband.

4. In reply of the above contention, it is submitted by learned A.G.A., Sri Rajiv Sisodiya and Sri Shashank Kumar appearing on behalf of respondent No. 4 that according to the F.I.R. lodged by father of the petitioner No. 2 the corpus has already been married with Narendra son of Jai Singh, the corpus remained at the house of Narendra as his wife but she fled away from there. After marriage with Narendra son of Jai Singh she may be handed over either to Narendra son of Jai Singh or to the parents of the corpus. In any case she may not be handed over to the petitioner No. 2 Tek Chandra who has developed illicit relationship with the corpus and without divorce the corpus may not perform the second marriage with Tek Chandra. In the present case no divorce has taken place. Narendra the husband of the corpus has already been summoned by this Court who clearly stated that he wanted to have his wife. The father of the corpus has also stated that his daughter Meenakshi has been married with Narendra Singh and the marriage of the corpus has not been performed with Tek Chandra. The learned Magistrate concerned has committed error by sending the corpus to Nari Niketan, she may be handed over to her husband Narendra Singh. Considering the facts, circumstances of the case, submissions made by learned counsel for the petitioner, learned A.G.A., Sri Rajiv Singh Sisodiya. Sri Shashank Kumar, learned counsel for respondent No. 4 Vijay Pal Singh and from the perusal of the record it appears that in the present case the corpus has been sent to Nari Niketan, Moradabad from where she was summoned by this Court, she was produced before this Court on 20.9.2012. On query made by the court the corpus stated that she was not knowing Narendra Singh, her marriage was not performed with him, she had performed the marriage with Tek Chandra in Arya Samaj Mandir, Hariyali Baag, Delhi, her date of birth was 10.12.1993, she had passed high school examination whereas her father Vijay Pal also appeared before this Court on 20.9.2012 who stated that the corpus was married with Narendra Singh according to Hindu Marriage rites, after marriage she remained in the house of Narendra Singh for about two months, thereafter she fled away from his house. Narendra Singh also appeared before this Court on 20.9.2012. On query made by the court he stated that he was married with corpus, he wanted to have the corpus, she may be released in his favour. The statement of the corpus was recorded by S.D.M., Hasanpur on 24.6.2012 also, its copy has not been filed by the petitioner, its copy has been filed by learned A.G.A. as C.A.-1 of supplementary counter-affidavit in which she stated that she was having love affairs with Tek Chandra, she had gone to Delhi in his company about three months back where she remained for three months, her family members pressurising the family members of Tek Chandra then she came from Delhi to Hasanpur and she was handed over to her family members, she had appeared in the High School Examination, in education certificates her date of birth was mentioned as of year 1995, in fact she was aged about 20 years, her marriage

was performed by her parents with Narendra Singh, she was living in the company of Narendra Singh but after taking the liquor she was expelled by Narendra Singh from his house then she went to the railway station, Gajraula and thereafter she met with a person, who was knowing Tek Chandra, alongwith him she reached Hasanpur and came to the police station, Hasanpur from where she was produced before the court of S.D.M., she wanted to go in the company of Tek Chandra, after considering her statement she was sent to Nari Niketan by S.D.M., Hasanpur on 24.6.2012. The statement of corpus was recorded by S.D.M. Hasanpur on 24.6.2012. The order dated 24.6.2012 passed by S.D.M., Hasanpur has not been deliberately filed by the petitioner because the corpus had admitted that she was married with Narendra Singh. The subsequent statement of the corpus recorded by the S.D.M., Hasanpur on 27.7.2012, does not show that she was already married with Narendra Singh. The petitioner has not come with clean hand. The corpus is a minor, according to the school record, she herself has stated that in the school record, her date of birth is of 1995 and she has already married with Narendra Singh. The married wife cannot be handed over to any other persons for having illicit relationship. The corpus does not want to go with her parents and with her husband Narendra Singh, in such circumstance, she may not be left at the mercy of others because she is not a fully matured girl and is not having any employment. Her natural guardian are her parents and even she has nowhere stated in her statement recorded on 24.6.2012 and 21.7.2012 by the S.D.M., Hasanpur that she was having any danger to her life from her parents whereas she has made an allegation that her husband Narendra expelled her from the house after taking liquor. According to the High School mark-sheet her date of birth is 10.12.1995, she is minor, her father is ready to take her in his custody. She may not be detained in Nari Niketan for a long period and no fruitful purpose may be served in keeping her in Nari Niketan. This court is cautious about the welfare of the corpus. The learned S.D.M., Hasanpur passed two orders dated 24.6.2012 and 21.7.2012 by which she has been sent to Nari Niketan Moradabad which does not appear to be proper therefore, the orders dated 24.6.2012 and 21.7.2012 are hereby set aside. The corpus is directed to be released from Nari Niketan Muzaffarnagar forthwith in the presence of the Officer-in-Charge of P.S. Hasanpur, the corpus shall be free to go to his father's house or her husband Narendra Singh's house, the Officer-in-charge of P.S. Hasanpur shall ensure that no hurt may be caused to the corpus either at her parent's house or her husband's house. In case, the officer-in-charge of P.S. Hasanpur is reported that she is not properly behaved or maintained either by her parents their family members or her husband as the case may be legal action shall be taken against such person/persons.

With this direction this petition is finally disposed of.