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Court : Rajasthan Jodhpur

Decided On : Sep-09-2013

Appellant : Ananda Ram

Respondent : State and ors

Judgement :

D.B. HABEAS CORPUS PETITION NO. 9651/2013. Ananda Ram Vs. State of Rajasthan & Ors. // 1 // 6 D.B. HABEAS CORPUS PETITION NO. 9651/2013. Ananda Ram Vs. State of Rajasthan & Ors. .. Date of Order ::

9. h September 2013. HON'BLE MR. JUSTICE DINESH MAHESHWARI HON'BLE MR. JUSTICE BANWARI LAL SHARMA Mr. Teja Ram Choudhary, for the petitioner. Mr. B.K. Mehar, Government Counsel. Mr. Talsa Ram (RPS), Dy. S.P. Sanchore (OIC). Mr. Gumana Ram, SI, PS Sanchore (IO). Ms. Rekha, Lady Constable (No.370), PS Sanchore. <><><> In this petition, seeking a writ of habeas corpus, the petitioner has stated the grievance that his daughter, allegedly about 16 years of age, had been abducted by the respondent No.4; and that he lodged an FIR bearing number 147/2013 on 12.04.2013 at Police Station Sanchore for the offences under Sections 143 and 366 of the Indian Penal Code but then, the Station House Officer of the concerned police station was not taking interest in searching his daughter. The petitioner has also stated in the petition that the detainee, i.e., his daughter, was a minor but he had given her age as 20 years in the FIR as per the directions of the police officers. In this petition, notices were ordered to be issued on 01.08.2013 and the respondents were expected to trace

out the missing person, i.e., the daughter of the petitioner. D.B. HABEAS CORPUS PETITION NO. 9651/2013. Ananda Ram Vs. State of Rajasthan & Ors. // 2 // On 02.09.2013, while hearing this matter, after examining the record, we posed a question to the learned counsel for the petitioner as regards the date of birth of the alleged detainee and the basis of obtaining the certificate dated 25.07.2013 (Annex.1), which had obviously been obtained after filing of the FIR. Today, the petitioner has filed an affidavit with the submissions that as far could be re-collected by him, the date of birth of his daughter is 03.10.1996; and that he had not given any fact as regards the date of birth of his daughter in the school nor submitted any document in the school; and he, an illiterate rural labourer, was not aware as to on what basis, the date of birth had been stated in the school record. Noticeable it is that the Investigating Officer, during the course of investigation in this matter, has obtained a certificate from the Government Primary School, Meghwalon-ka-Bass, Sanchoe wherein the date of birth of the daughter of the petitioner has been stated as 15.07.1991. It is submitted today on behalf of the respondents that the daughter of the petitioner was traced out on 06.09.2013. Thereafter, her statements were recorded and the medical examination was also got conducted at Community Health Centre, Sanchoe wherein, inter alia, it has been noticed that she is carrying pregnancy of about 16-18 weeks. The daughter of the petitioner has been produced before us. Having examined the case diary, we found that apart from D.B. HABEAS CORPUS PETITION NO. 9651/2013. Ananda Ram Vs. State of Rajasthan & Ors. // 3 // recording her statements under Section 161 Cr.P.C., the daughter of the petitioner was also produced before the Magistrate at Raniwara and her statements under Section 164 Cr.P.C. were also recorded. At our directions, the Deputy Registrar (Judicial) has obtained a fax copy of her such statements under Section 164 Cr.P.C. from the concerned Magistrate. We have conferred with the daughter of the petitioner in camera and thereafter, also permitted the petitioner himself to confer with her. The daughter of the petitioner has consistently maintained that she had gone with the respondent No. 4 of her own accord; and that she is not inclined to go with the petitioner and wants to live the respondent No. 4 (Ashok) only. So far the age of the daughter of the petitioner is concerned, from the school record as also all other surrounding facts and circumstances, we are satisfied that she is much above 18 years of age

and cannot be said to be a minor. The petitioner had himself earlier stated her age at 20 years in the FIR but later on attempted to disown such a statement while filing this petition and then, referred to a certificate obtained from the Registrar, Birth & Death Registration Act, 1969 only on 25.07.2013, which seems to have been issued only with reference to the affidavit. D.B. HABEAS CORPUS PETITION NO. 9651/2013. Ananda Ram Vs. State of Rajasthan & Ors. // 4 // It is definitely expected of the concerned authorities while issuing such a certificate to seek necessary verification and cogent evidence rather than issuing the same as a matter of course, may be on the basis of affidavit alone. However, so far the present matter is concerned, when the petitioner himself has made uncertain statements and now has referred to his background of illiteracy, we would not like to make any further comment and leave the matter at that only. In this petition seeking a writ of habeas corpus, we are satisfied that the daughter of the petitioner cannot be said to be in any illegal detention and deserves to be set free to go to the place of her choice. Accordingly, this petition seeking a writ of habeas corpus stands dismissed. It shall be required of the Investigating Officer concerned to ensure safe passage of the daughter of the petitioner to the destination of her choice. (BANWARI LAL SHARMA), J.

(DINESH MAHESHWARI), J.

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