

Sangeeta Vs. State

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Court : Rajasthan

Decided On : Feb-01-1993

Reported in : I(1993)DMC601; 1993(1)WLC278

Judge : I.S. Israni and; V.K. Singhal, JJ.

Acts : [Constitution of India, 1950](#) - Article 226; Code of Criminal Procedure (CrPC)
- Sections 164

Appeal No. : D.B. (H.C.) Petition. No. 6901 of 1992

Appellant : Sangeeta

Respondent : State

Advocate for Def. : O.P. Sharma, Adv.

Advocate for Pet/Ap. : Ashok Verma, Adv.

Disposition : Petition dismissed

Judgement :

I.S. Israni, J.

1. Heard. This habeas corpus petition has been filed by one Willad alias Nirranjan on behalf of Smt. Sangeeta D/0 Judawal Singh. It is submitted by Shri Ashok Verma, learned Counsel that she has been kept in Nari-Niketan against her

wishes. She is 18/19 years old and thus a major. It is submitted that Anx. 1 is agreement of marriage between Willad and Mst. Sangeeta, which shows that they are living as husband and wife. It is submitted that learned Judicial Magistrate, Kama, Bharatpur vide order Anx. 3 dated 30.7.92 has wrongly confined her to Nari-Niketan. She is being married and is free to live wherever she likes. Reliance was placed on *Sirajul Haque v. State of Rajasthan*, 1988 (2) WLN 698.

2. It is submitted by Shri O.P. Sharma, learned Government Advocate that parties are Hindu and there can be no agreement according to the Hindu Marriage Act, 1955.

3. We have heard both the parties at length and gone through the relevant documents. Anx. 3 dated July 30, 1992, which is order passed by learned Judicial Magistrate, Kama, Bharatpur, there is mention that her statement was recorded Under Section 164 Cr. P.C., in which, she has stated that Willad and one Bittu committed rape upon her. She has further expressed her desire by way of application that she may be kept at secured place and does not want to go even with her parents because they gave beatings to her. Thereafter, the learned Magistrate talked to her personally also. In these circumstances, the learned Magistrate thought fit that she may be sent to Nari Niketan, where she may feel secure and safe.

4. The learned Counsel stressed that in the matter of *Sirajul Hague* (supra) this Court allowed the habeas corpus petition, even though, accused In that case was alleged to have committed offence Under Section 366 IPC. In the matter under consideration we are of the considered opinion that a person against whom Mst. Sangeeta has given statement Under Section 164 Cr. P.C. that he has committed rape with her alongwith his friend, cannot be said to be the next friend in the capacity to approach this Court by way of habeas corpus petition. Habeas Corpus Petition can be maintained only, by any person/ members of the family or by some other person, who has to properly look after the person, who is illegally confined. We, are, therefore, do not consider that Willad alias Niranjana to be a fit and proper person in the capacity of next friend to approach this Court by way of Habeas Corpus Petition. The same is, therefore, dismissed as not maintainable.

5. However, any of the family members or Mst. Sangeeta herself will be at liberty to apply or any Court of law for any grievance that they wanted to be redressed.

With this observation, the habeas corpus petition is dismissed.

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