

Om Singh Vs. State and ors.

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Court : Rajasthan

Decided On : Sep-11-2007

Reported in : 2008(1)WLN34

Judge : Rajesh Balia and; Sangeet Lodha, JJ.

Appeal No. : D.B. Civil Writ (Habeas Corpus) Petition No. 4807/2007

Appellant : Om Singh

Respondent : State and ors.

Judgement :

Rajesh Balia, J.

1. The Corpus Ms. Raju Kanwar was produced on 22.08.2007 before the Court and considering the possibility of her being under the influence of respondent, with whom she has remained for more than three months, she was directed to be housed at Nari Niketan. She was again produced in the Court on 27.08.2007 from Nari Niketan and the Court noticed from the facts as emerging from the statements of the girl & the petitioner that she has left her house voluntarily to marry respondent No. 4 Mangu Singh son of Prem Singh & has married him. Since parties wanted sometime, the Court considered appropriate to allow girl to remain at Nari Niketan to be independent of all influences from either party. She was again produced on 05.09.2007 from Nari Niketan on which date the parties prayed

for more time for settlement, but the position remained the same.

2. Because of the inter-se relation between the parties, the respondent No. 4 and Ms. Raju Kanwar developed intimacy and she voluntarily left the house to marry respondent No. 4 and voluntarily married.

3. Both the parties belong to same community. It was only to sort out the proposition particularly keeping in view the age of the girl which is stated to be about 17 years, an opportunity was given to work out an acceptable solution. However, no progress appears to have been made in that direction.

4. The fact of marriage is not seriously disputed before us. In the aforesaid circumstances, the real point for consideration before us is whether the petitioner, who is brother of corpus, is entitled to the custody of the girl or her husband is entitled.

5. Under the Hindu Minority and Guardianship Act, 1956. Husband is a natural guardian of the person of wife, who is minor. Under the provisions of the Hindu Marriage Act, where party to the marriage is below the age of majority, the marriage has not been stated to be void or voidable. Marriage having taken place after completing the age of 15 years, prima facie option under Section 13-B is also not available. The effect of marriage cannot be wiped out.

6. Keeping in view the above facts and the consistent stand taken by the girl that she wants to stay with her husband-the respondent No. 4, we deem it just and proper and in the interest of girl herself that she stays with her husband.

7. Accordingly, Ms. Raju Kanwar is allowed to go with her husband respondent No. 4, who is present in Court. The respondent No. 4 and Ms. Raju kanwar be provided police protection until they reach home.

8. Accordingly, this petition is dismissed.