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Uda Ram Vs. State (Habeas Corpus) and ors

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Court : Rajasthan Jodhpur

Decided On : Apr-15-2013

Appellant : Uda Ram

Respondent : State (Habeas Corpus) and ors

Judgement :
D.B. HABEAS CORPUS PETITION NO. 6877/2012. Uda Ram Vs. The State (Habeas Corpus) & Ors. 1 D.B. HABEAS CORPUS PETITION NO. 6877/2012. Uda Ram Vs. The State (Habeas Corpus) & Ors. .. Date of Order ::

15. h April 2013. (Second order) HON'BLE MR. JUSTICE DINESH MAHESHWARI HON'BLE MR. JUSTICE BANWARI LAL SHARMA Mr. Uda Ram Meghwal, petitioner present-in-person with his counsel Mr. Jitendra Ojha. Mr. Anand Purohit, Senior Advocate & AAG with Mr. Pradhyumn Singh, Assistant to AAG. Ms. Nirmala, Station House Officer, Mahila Police Thana, Hanumangarh. <><><> At request, this matter was taken on Board today as it was mentioned by the learned Government Counsel that daughter of the petitioner has been recovered and is being produced before the Court. This has been one of the matters where this Court had in the past on several occasions expressed reservations on the manner of dealing with the investigation by the police and dissatisfaction that the daughter of the petitioner, said to be about 10-11 years of age, was not recovered despite several clues having been given and the name of the accused having been divulged. Today, when the matter was placed before us in the first session sitting, after having primarily conferred with daughter of the petitioner in camera and upon

examination of the case diary, it was noticed that though her medical examination was got conducted yesterday by a Medical Board but its report is not available. We were D.B. HABEAS CORPUS PETITION NO. 6877/2012. Uda Ram Vs. The State (Habeas Corpus) & Ors. 2 informed that report has not yet been received by the police. This apart, we found that except a school leaving certificate, no other efforts are available on the case diary on the part of Investigating Agency to ascertain the age (or approximate age) of the daughter of the petitioner. Even the statements as purportedly recorded under Section 161 Cr.P.C. were not found giving a reasonable satisfaction about the in-depth factual position. After finding that the statements of the girl have not been recorded under Section 164 Cr.P.C. and after having conferred with her in camera, we found rather necessary that her such statements under Section 164 Cr.P.C. be recorded today itself. Accordingly, we directed the Chief Judicial Magistrate, Jodhpur District, Jodhpur to record such statements and to send the same in sealed cover today itself. The statements so recorded by the Chief Judicial Magistrate, Jodhpur District, Jodhpur have been produced before us. We have conferred with daughter of the petitioner who has expressed her desire to go with the petitioner who is essentially her step father as her natural father had expired and her mother is said to have contracted Nata with the petitioner. The daughter of the petitioner has, however, expressed a wish that the petitioner ought to take care of her studies as also her treatment to which the petitioner has readily agreed. In the totality of circumstances, we find it in the welfare of the girl as also in the fitness of things that she be allowed to go with the petitioner. D.B. HABEAS CORPUS PETITION NO. 6877/2012. Uda Ram Vs. The State (Habeas Corpus) & Ors. 3 The girl concerned being not in any detention any more, so far the prayer for issuance of a writ of habeas corpus is concerned, no further orders appear requisite. However, in view of the statements given by the daughter of the petitioner under Section 164 Cr.P.C. and in view of the circumstances unfolding, it appears that substantial further investigation is requisite in the matter as also the girl is required to be taken care of. It shall be required of the respondents to take all the requisite steps in further investigation of the matter as also for the welfare of the daughter of the petitioner and in case of any difficulty, it shall obviously open for the petitioner to take recourse to the appropriate remedies in accordance with law. So far the statements under Section

164 Cr.P.C. are concerned, while retaining a copy thereof on the record of this petition, the original may be sent to the Court concerned and a copy thereof may be given to the Station House Officer concerned for the purpose of investigation in FIR No. 31/2012 Police Station Hanumangarh. It shall be required of the Station House Officer concerned to ensure safe passage of the petitioner and his daughter to the destination of their choice. Subject to the observations and requirements aforesaid, this petition stands disposed of. (BANWARI LAL SHARMA), J.

(DINESH MAHESHWARI), J.

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