

In the High Court of Judicature for Rajasthan at Jaipur Bench, Jaipur
O R D E R

1. *D.B. Civil Habeas Corpus Petition No.46 of 2012*

Avinash son of Shri Sugan Chand

VERSUS

State of Rajasthan and Others

2. *S.B. Civil Writ Petition No.3125 of 2012*

Jitendra Baveriya and another

VERSUS

State of Rajasthan and Others

Date of Order :::: 30.03.2012

Hon'ble Mr. Justice Dalip Singh

Hon'ble Mr. Justice S.S. Kothari

Mr. Ravi Shankar Sharma, Counsel for Petitioner - Avinash

Mr. Bheem Sain Bairwa, Counsel for Petitioners - Jitendra & Reena

Mr. Rajendra Yadav, Govt. Advocate for the State

Mr. Laxminarain Saini, S.H.O. Police Station Kotputali]

Mrs. Geeta Devi, Constable [1462] present in-person

Per Court :

These two petitions, arise out of the same matter and, therefore, they are being heard and disposed of together by this common order.

CWP No.3125/2012 was filed by Jitendra and Reena for the relief by way of a writ, order or direction that they may be granted protection of their life and liberty and at the same time quashing of the F.I.R. bearing No.70 of 2012 registered at Police Station, Kotputali, District Jaipur, which was lodged by the respondent No.4 - Avinash, the father of Reena for commission of the offence under Section 366 I.P.C.

Learned Single Judge vide order dated 13.03.2012 while issuing notice to the respondents directed the S.H.O. Police Station Kotputali to provide protection to both the petitioners, after being satisfied that both the petitioners namely; Jitendra and Reena had

entered into marriage, which was registered with the Registrar of Hindu Marriages, Gaziabad [U.P.] on 13.02.2012.

It is not in dispute that both the petitioners are major and of marriageable age.

DB Habeas Corpus Petition No.46/2012 has been filed by Avinash, father of Reena for production of his daughter Reena before the Court. Avinash has alleged that he has lodged a report against the respondent No.5 - Jitendra @ Jeetu Bawariya, but the Police has not taken any action so far of recovering his daughter.

Notices were ordered to be issued in the habeas corpus petition by the Division Bench, as the fact regarding the filing of the earlier petition by Jitendra was not on record. After the return of notices on 26.03.2012, Shri Rajendra Yadav, learned Government Advocate appearing on behalf of the State submitted the facts regarding the filing of CWP No.1325/2012, referred to above in this behalf by Jitendra & Reena. Thereafter, both these petitions were ordered to be heard together vide order dated 26.03.2012 and a direction was issued to produce Jitendra and Reena before the Court.

On 28.03.2012 Jitendra and Reena appeared before the Court and since it was alleged by Avinash, father of Reena that Reena has been produced from the care and custody of Jitendra and his family members, some time should be allowed to Reena to rethink the matter independently. Accordingly, the detenue was

remanded to the care of Superintendent, Nari Niketan, Pratap Nagar, Jaipur on 28.03.2012 with the direction to produce her before this Court today. Accordingly, Reena has been produced before this Court from the care of Superintendent, Nari Niketan, Pratap Nagar, Jaipur by S.H.O. Kotputali, along with Lady Constable No.1462.

The Court inquired from Reena, the detenu as to what is her wish, as she is more than 18 years of age and a major. Reena has stated before the Court that she wishes to remain with Jitendra and his family in the matrimonial home, as she has now duly been married to Jitendra. As per the mark-sheet issued by the Zila Shiksha Evm Prakshikshan Sansthan [DIET], Goner, Jaipur her date-of-birth is 30.06.1993, which makes her more than 18 years of age on the date of her marriage.

In the facts and circumstances, therefore, since Reena has independently made up her mind to remain with her husband Jitendra, who is also present in-person and has stated before the Court that he is willing to keep her, as his wife as they are legally married, both these petitions are disposed of with the direction that since the corpus [Reena] has been produced before the Court and she has stated that she wishes to remain with her husband in her matrimony family and is not under illegal detention, no further directions are required to be issued in this Habeas Corpus Petition No.46/2012. Accordingly, the same is disposed of.

So far as the CWP No.3125/2012 [Jitendra & another Vs. State & Others] is concerned, in view of what has been stated by Reena before the Court and the fact that she is a major and there is a valid marriage between Reena and Jitendra for which the certificate has been submitted before this Court, the F.I.R. bearing No.70 of 2012 lodged at Police Station Kotputli by Avinash is, accordingly, quashed and the S.H.O. is directed not to proceed against Jitendra and other accused-persons named therein.

Avinash, father of Reena stated before the Court that now, in view of these circumstances, he wants to celebrate the marriage of Reena with Jitendra.

So far as the aforesaid prayer is concerned, it is directed that he may approach the family of Jitendra and the S.H.O. Police Station, Kotputali would facilitate a meeting between the two families for this purpose.

Consequently, both these petitions stand disposed of, along with stay application [2579/2012], as aforesaid.

[S.S. Kothari] J.

[Dalip Singh] J.

Certificate - All corrections have been incorporated in the judgment/order being emailed.
Ashok Kumar Songara/P.A.cumJ.W.