

\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

7

+

W.P.(CRL) 3629/2017

AJAY KUMAR

..... Petitioner

Through: Mr M.A. Rahman, Mr I. Rahman and Mr
A. Kalam, Advocates

versus

STATE OF DELHI & ORS

..... Respondent

Through: Ms Kamna Vohra, ASC for State with
Inspector Harendra Singh, SHO and SI Naveen PS
Aman Vihar

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE C.HARI SHANKAR

ORDER

%

29.12.2017

Crl. MA 21528/2017 (exemption)

1. Allowed, subject to all just exceptions.

W.P.(CRL) 3629/2017

2. This is a *habeas corpus* petition seeking directions to the Respondent State to trace out and produce Anita@ Sunita, the wife of the Petitioner.

3. A status report handed over by learned ASC for the State which *inter alia*, states that on the complaint dated 26th February 2017 of Anita's father of her kidnapping, the police registered FIR 203 of 2017 at PS Aman Vihar under Section 363 IPC, raided the house of the Petitioner's father (Shiv

Kumar) and recovered Anita. Further investigations revealed that the marriage certificate dated 25th February 2017 produced by the Petitioner and his father was forged and the girl Anita was in fact a minor. In her statement under Section 164 Cr PC Anita *inter alia* stated that she had been raped by the Petitioner on 23rd February 2017. The Petitioner and his father were arrested. A second FIR 396 of 2017 was registered under Sections 420, 468, 471 IPC.

4. A further complaint was made by the father of Anita on 12th August 2017 that she had been kidnapped again and a third FIR 934 of 2017 was registered under Section 363 IPC. On 17th September 2017 Anita was again recovered from the Petitioner's house. A further statement of Anita was recorded under Section 164 Cr PC where *inter alia* she again stated that the Petitioner had raped her. Offences Sections 366/376/368/506 IPC and Sections 6, 17 and 21 of the POCSO Act were added to the FIR.

5. It transpired that on the basis of the school record, the Petitioner himself was declared a juvenile by the Sessions Court, produced before the JJB and granted bail by it on 23rd November 2017.

6. Another complaint was made by Anita's mother on 8th December 2017 suspecting that the Petitioner and his father had again kidnapped Anita. A fourth FIR 1297 of 2017 under Section 363 IPC was registered. Efforts are stated to be underway to trace Anita.

7. A perusal of the petition shows that while there is a mention of the fact that there are four FIRs against the Petitioner and his family, the offences for which they have been registered and the background facts and circumstances under which they came to be registered are not mentioned. The fact that the Petitioner is a juvenile and has been granted bail by the JJB is suppressed. That his father was arrested and his anticipatory bail application was dismissed by the High Court is also suppressed.

8. The Court is satisfied that the Petitioner has not come to the Court with clean hands and that there is a wilful suppression by the Petitioner of material facts within his knowledge. The petition is, therefore, dismissed.

S.MURALIDHAR, J.

C.HARI SHANKAR, J.

DECEMBER 29, 2017

rd