

Court No. - 82

Case :- HABEAS CORPUS WRIT PETITION No. - 635 of 2022

Petitioner :- Smt. Neelam Sharma And Another

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Vishwanath Mishra, Vinay Kumar Mishra

Counsel for Respondent :- G.A.

Hon'ble Saurabh Shyam Shamsbery, J.

This is a habeas corpus petition alleging that corpus is wife of petitioner No.2. In order to prove that they were legally married, Sri Vishwanath Mishra, learned counsel for petitioners has placed reliance upon a certificate issued by Arya Samaj, Deeppur, Kanpur Nagar and further a document of Pradhan, Gram Panchayat, Mau, Sultanpur as well as certain photographs.

Sri Sunil Srivastava, on instructions submits that the girl has given a written statement to police authorities wherein she has disputed the marriage and stated that she is willingly residing with her parents.

The Court has flooded with the marriage certificates issued by different Arya Samaj Societies which has been seriously questioned during different proceedings before this court as well as by other High Courts. The said institution has misused their beliefs in organizing the marriages without even considering genuineness of documents and since the marriage has been registered, therefore, only on the basis of said certificate it cannot be deemed that the parties have married.

Otherwise also, habeas corpus is a prerogative writ and an extraordinary remedy. It cannot be issued as a right but only on reasonable grounds or probability is shown (*see Mohammad Ikram Hussain v State of U.P. and others, 1964 AIR 1625 and*

Kanu Sanyal vs. District Magistrate Darjeeling, (1973) 2 SCC 674).

The petitioners have other remedies available for the purpose under criminal and civil law, therefore, the present writ petition for habeas corpus at the behest of husband to regain his wife as corpus is not maintainable as a matter of course, ignoring that the marriage cannot be deemed to be solemnized.

In the present case, the corpus is a major and is residing with her parents of her own will and she has already given a statement to the police authorities that she does not want to live along with petitioner No.2, therefore, there is no case to issue writ of habeas corpus.

The petition stands **dismissed**.

Order Date :- 31.8.2022

Nirmal Sinha