

Court No. - 66

Case :- HABEAS CORPUS WRIT PETITION No. - 290 of 2020

Petitioner :- Parul Sharma @ Parul Tomar

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Sanjay Pratap Singh, Shweta Singh

Counsel for Respondent :- G.A., Amit Kumar Srivastava, Kuldeep Kumar Shukla

Hon'ble J.J. Munir, J.

Sri Anil Kumar Singh, Advocate has filed his Vakalatnama on behalf of the petitioner. It is taken on record.

This habeas corpus petition has been filed by Smt. Parul Sharma @ Parul Tomar through her husband Shivam Tomar alleging illegal detention by her father, respondent no. 4 and asking this Court to set her at liberty. In this case, an order was passed initially to produce her on 23.06.2020. The matter came up on 23.06.2020 when the detinue was not produced. Under the circumstances, last opportunity was granted to the Senior Superintendent of Police, Kanpur Nagar to produce the detinue on 26.06.2020 at 2.00 p.m. She was produced on 26.06.2020. The Court was taken through some corrections made to the marriage certificates regarding the date of birth. The Court took exception to the genuineness of the marriage certificate dated 16.01.2020, and, as an interim measure, ordered Parul Sharma to go along with her father, respondent no. 4.

An inquiry into the validity of the marriage certificate dated 16.01.2020 was ordered to be made by the Chief Metropolitan Magistrate, Kanpur Nagar. In compliance with that direction of the Court, a report dated 26.08.2020 from the learned Chief Metropolitan Magistrate, Kanpur Nagar has been received. It is a very carefully done report by the learned Chief Metropolitan Magistrate where he has examined the *Mantri* and the *Purohit* of the Arya Samaj, Benajhabar, Kanpur on 12.08.2020. He has also perused the records relating to the detinue's marriage. The finding returned is that the marriage certificate dated 16.01.2020 is genuine and there is no scoring out of entries there. It has been noted that the date of birth of the petitioner recorded in the marriage certificate is 14.05.2002. The learned Chief Metropolitan Magistrate has also recorded the fact that in the mark-sheet relating to the ICSE Board (class 10th examination) the date of birth of the petitioner, Parul Sharma recorded is 15.01.2002. Whichever way it has viewed, as on date, the marriage certificate relating to the petitioner, Parul Sharma and her husband Shivam has been found to be a valid and a genuine document. Also, as matters stand on this day,

Parul Sharma is a major, aged above 18 years.

This Court is also informed that after this Court's order dated 26.06.2020, Parul Sharma broke custody of her father and went away to her husband of her free will. Learned counsel for the petitioner, however, submits that Parul Sharma did not go to her husband but on account of ill treatment meted out by her father, she left her home of her free accord and went to a friend of hers one Aisha, a resident of Barra, P.S. Barra, District Kanpur Nagar and stayed with her. Thereafter, she left for Raigarh, Chhattisgarh, where she claims to have stayed in a Radha Madhav temple situate at Rajiv Nagar. Today, she has appeared in Court travelling from Raigarh.

In the circumstances, this Court is of opinion that the stand of Parul Sharma about the claim that she has been in illegal confinement of her father, may be ascertained. This Court proceeds to record her statement verbatim:

Q. Aapka Naam?

A. Parul.

Q. Poora Naam?

A. Parul Sharma.

Q. Aapki Aayu?

A. 19 years.

Q. Aapke Pitaji ka naam?

A. Siddharth Swami.

Q. Aapne Shadee kee hai?

A. Ha.

Q. Kisse kee hai?

A. Shivam Tomar se.

Q. Aap is samay kaha se aayi hai?

A. Raigarh, Chhattisgarh se.

Q. Aap apne pitaji ke pas jana chahati hai?

A. Nahi. (she nodded her head in refusal)

Q. Aap kaha jana chahati hai?

A. Shivam ke pas.

Q. Aapko koi dar hai kisi se?

A. Haa. Bad me pareshan na kre koi.

Q. Aapko kaun pareshan kar sakate hai?

A. Pitaji aur Alok Dwivedi, Advocate, jo mujhe dhamkate hai.

Going by the aforesaid stand of the petitioner, Parul Sharma, the *rule nisi* initially issued and as modified from time to time is made **absolute**. Smt. Parul Sharma shall be at liberty to go wherever she wants. She has indicated her inclination to go and stay with her husband, Shivam Tomar. She may do so.

The writ petition is **allowed**.

The Senior Superintendent of Police, Kanpur Nagar is ordered to extend requisite security to the couple and ensure that her married life is not interfered with, either by respondent no. 4 or anyone else acting on his behest. In case of any breach of this direction, the Senior Superintendent of Police, Kanpur Nagar shall be personally answerable to this Court.

This order has been passed in the presence of respondent no. 4, Siddharth Swami.

Let this order be communicated to the Senior Superintendent of Police, Kanpur Nagar by the Joint Registrar (compliance) today.

Order Date :- 8.9.2020

BKM/-