

Court No. - 82

Case :- HABEAS CORPUS WRIT PETITION No. - 637 of 2022

Petitioner :- Bhola Singh And Another

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

Counsel for Petitioner :- Dharam Veer Singh

Counsel for Respondent :- G.A.

Hon'ble Saurabh Shyam Shamshery,J.

This is a habeas corpus petition alleging that corpus is wife of petitioner No.1. In order to prove that they were legally married, Sri Dharam Veer Singh, learned counsel for petitioners has placed reliance upon a certificate issued by Arya Samaj Mandir, Ghaziabad and further a certificate of registration of marriage as well as certain photographs.

Sri Sunil Srivastava, on instructions submits that an F.I.R. has been lodged against petitioner No.1 by the father of corpus, petitioner No.2 and the investigation is undergoing.

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 not 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 marriage cannot be deemed to be solemnized.

In the present case, the corpus is a major and an F.I.R. has been lodged against the petitioner No.1 by father of petitioner No.2 corpus and investigation is undergoing, therefore, there is no case of illegal detention.

The petition stands **dismissed**.

Order Date :- 31.8.2022

Nirmal Sinha