

Court No. - 14

Case :- HABEAS CORPUS WRIT PETITION No. - 148 of 2023

Petitioner :- Aarfa Bano Thru. Mohd. Hasim

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And 3 Others

Counsel for Petitioner :- Sikandar Zulqarnain Khan

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

1. Heard Shri Sikandar Zulqarnain Khan, the learned counsel for the petitioner, Shri Sushil Kumar Mishra, the learned A.G.A.-I for the State-respondent Nos. 1 and 2 and perused the record.

2. The present habeas corpus petition has been filed with the following prayer:

"(i) issue a writ, order or direction in the nature of habeas corpus directing the opposite parties to produce the detinue before this Hon'ble Court who is illegally detained by the opposite party No. 3 and 4 without any reason since 2021 and free to her from illegal custody.

(ii) issue any other writ order or direction which this Hon'ble court may just and proper also kindly be passed in favour of the detinue.

(iii) allow writ petition in favour of the detinue with costs."

3. This petition has been filed by the father-in-law of the detinue, with the prayer that his daughter-in-law, who is married with the son of petitioner, is in illegal custody of her parents, thus, custody of detinue be given to her father-in-law as her parents are not allowing her to go to her matrimonial house. It has further been stated in the petition that husband of detinue, who is son of petitioner is living in Kuwait for earning his livelihood.

4. Shri Sushil Kumar Mishra, the learned A.G.A.-I has raised a preliminary objection by submitting that the present petition has not been filed by the husband of the detinue and it has been filed by the father-in-law of the detinue, thus, it is not maintainable.

5. Marriage is a contract as per the Muslim Law and husband is bound to give protection, shelter and fulfill all the desires and day to day requirements of his wife. After marriage the husband of the detenu is living and earning in Kuwait and detenu is living with her parents, thus, it cannot be said that she is in illegal detention. It may be possible that detenu herself does not want to go to her matrimonial house when her husband is not living there. Even if there is any grievance, the husband has remedy to approach before appropriate forum, but not the father-in-law, as he has no locus at all.

6. With the above observations, the present habeas corpus is finally **disposed of**.

Order Date :- 16.5.2023

Mustaqeem