

THE HIGH COURT OF MADHYA PRADESH
WP No.10212/2020
(NEERENDRA SINGH RANA VS. STATE OF MADHYA PRADESH)

Gwalior dtd. 24/07/2020

Shri Rishikesh Bohare, learned counsel for the petitioner.

Shri Anmol Khedkar, learned Panel Lawyer for the State.

Heard finally through Video Conferencing.

This petition under Article 226 of the Constitution of India has been filed in the nature of habeas corpus. The allegation is that the wife of the petitioner is in illegal confinement of the private respondents no. 4 to 13 since January 2019. It is submitted that the marriage was performed on 18-4-2018, but in the month of January, 2019 his wife went to her parental house and informed that she does not want to come back, therefore, the petitioner filed an application under Section 9 of Hindu Marriage Act. However, the wife of the petitioner did not agree to come back to her matrimonial house, therefore, the petitioner withdrew the application filed under Section 9 of Hindu Marriage Act for restitution of conjugal rights. Thereafter, an application under Section 13-B of Hindu Marriage Act was filed for grant of divorce by mutual consent. However, the wife of the petitioner is not appearing before the Court. It is submitted by the counsel for the petitioner that the petitioner has been informed by a close relative that in fact the wife of the petitioner wants to reside with the petitioner, but she is in illegal confinement of her parents i.e. respondent No.4 to 13.

However, the counsel for the petitioner fairly conceded that the name of said informant has not been disclosed in the writ

petition and he also cannot disclose the name of said informant because the informant has instructed the petitioner not to disclose his name otherwise his relations with parents of the wife of the petitioner would get spoiled. Accordingly, it is submitted that the wife of the petitioner may be directed to appear before the Court so that she may make a statement.

Heard the counsel for the petitioner.

The petition in the nature of habeas corpus should be filed in those cases where the corpus is in illegal confinement/custody of the respondents. In order to settle the civil disputes of the parties, the writ of habeas corpus cannot be entertained and it is a clear misuse of lawful authority of this Court. The petitioner had filed an application under Section 9 of Hindu Marriage Act but he ultimately withdrew the same. According to the petitioner his wife also did not appear even in the proceedings under Section 13-B of Hindu Marriage Act for grant of divorce by mutual consent. The wife of the petitioner is undisputedly residing with her parents for the last more than one year. It cannot be said that the wife of the petitioner is in their illegal confinement. Why the petition filed under Section 9 of Hindi Marriage Act was withdrawn is not known to this Court and the petitioner has already withdrawn an effective and efficacious remedy, which was available to him.

Accordingly, this Court is of the considered opinion that the petitioner has failed to *prima facie* satisfy this Court, that his wife is in illegal custody/confinement of her parents.

Accordingly, the petition fails and is hereby **dismissed**.

Pj'S/-

(G.S.Ahluwalia)
Judge