

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).7430/2010

(From the judgement and order dated 06/05/2010 in HCWP No. 25392/2010 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

MONU & ANR Petitioner(s)

VERSUS

CHHATRAPAL SINGH & ORS. Respondent(s)

(With appln(s) for stay and office report)

Date: 11/10/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE CYRIAC JOSEPH
HON'BLE MR. JUSTICE T.S. THAKUR

For Petitioner(s) Mr. Farrukh Rasheed, Adv.
Mr. Jatinder Tomar, Adv.
Mr. V.N. Raghupathy, Adv.

For Respondent(s) Mr. Sanjay Visen, Adv.
Nos. 3 to 5 Mr. Anuvrat Sharma, Adv.
Ms. Alka Sinha, Adv.

RR 1,2 Ms. Prachi Mishra, Adv.
Dr. Kailash Chand ,Adv

UPON hearing counsel the Court made the following
O R D E R

Leave granted.
The appeal is allowed in terms of the signed order.

(Shashi Sareen) (Renuka Sadana)
Court Master Court Master
(Signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 1904 OF 2011
(Arising out of SLP(Crl.) No. 7430 of 2010)

MONU & ANR. ... Appellant(s)

Versus

CHHATRAPAL SINGH & ORS. ... Respondent(s)

O R D E R

Leave granted.

This appeal is filed against the order dated 06.05.2010 passed by the High Court of Allahabad in Habeas Corpus Writ Petition No. 25392 of 2010. The said Habeas Corpus Writ Petition was filed by respondent Nos. 1 and 2 who are the parents of petitioner No. 2, Smt. Asha. Petitioner No. 1, Monu is the husband of Smt. Asha.

The allegation in the Habeas Corpus Writ Petition was that petitioner No. 1 Monu had abducted petitioner No. 2 Smt. Asha who was a minor and she was in the illegal custody and hence she should be released and handed over to the parents. In Criminal Case No. 487 of 2009, Chief Judicial Magistrate, Aligarh had found that Ms. Asha was aged 16 years 3 months and 23 days and on that basis directed to hand over custody of Ms. Asha to her mother Smt. Lata Devi who had made an application for such custody. It was against

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that background that the Habeas Corpus Writ Petition was filed by the parents of Ms. Asha. As per the impugned order, the Habeas Corpus Writ Petition was finally disposed of with a direction to the Senior Superintendent of Police, Aligarh to ensure compliance of the order of the Chief Judicial Magistrate, Aligarh forthwith. Thereupon petitioner nos. 1 and 2 filed this appeal. While issuing notice on 01.09.2010, this Court had passed an interim order staying the impugned order passed by the High Court.

When the matter was heard on 26.08.2011, we directed the petitioners and respondent Nos. 1 and 2 to be personally present before this Court today. In compliance with the direction, the petitioners as well as respondent No. 2 Smt. Lata Devi are present in Court. It is stated that respondent No. 1 could not come.

We gave an opportunity to the petitioners to talk to

respondent No. 2 in the Court premises and after such interaction between the parties, the matter was again taken up for passing appropriate orders.

Respondent No. 2 submitted that she was not insisting on getting custody of petitioner No. 2, in view of the fact that she is already married to petitioner No. 1 and is the mother of two children. According to respondent No. 2, she was only interested in ensuring the safety and security of her daughter-petitioner No. 2. It is also not disputed

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that, as on today, petitioner No. 2 is a major. Moreover petitioner No. 2 wants to live with petitioner No. 1 and does not want to go with respondent No. 2.

In such circumstances, we do not find any justification for allowing the impugned order to remain in force. We also notice that there is a qualitative change in the attitude of respondent No. 2 towards the petitioners and there is every likelihood of their relationship improving by passage of time.

Therefore, in the best interests of the petitioners as well as respondent Nos. 1 and 2, we are inclined to allow this appeal. Accordingly, the impugned order of the High Court is set aside.

.....J.
(CYRIAC JOSEPH)

.....J.
(T.S.THAKUR)

New Delhi,
October 11, 2011.