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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision:-21st August, 2024.

+ W.P.(CRL) 2478/2024 & CRL.M.A. 24102/2024

MUKESH KUMAR SEN

.....Petitioner

Through: Mr Manendra Mishra, Mr. Dharmender Basoya, Ms. Madhavi Yadav and Ms Rupali Sinha, Advocates. (M: 9818949469)
Petitioner alongwith his wife and his sister/R-5's wife in person.

versus

STATE NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel (Crl.) for the State with Ms. Priyam Aggarwal & Mr. Abhinav Kumar Arya, Advocates.
Insp. Narender Singh, SI Kiran, P.S. K.M. Pur and SI Ashish, P.S. Maurice Nagar.
Respondent no. 5/Satender in person alongwith girl.
Mr. Lakhindra Rahul Singh, trustee of Arya Samaj Mandir, in person.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

Prathiba M. Singh, J. (ORAL)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed on behalf of the Petitioner-Mr. Mukesh Kumar Sen under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *habeas corpus* for production of his daughter.



3. This case presents certain peculiar facts. The Petitioner's daughter was stated to be missing since 1st July, 2024. The Petitioner/father of the missing girl thereafter came to know that his daughter has married her real uncle (*foofa/Bua's husband*) - Mr. Satendra Kumar *i.e.* Respondent No. 5, on 1st July, 2024. The marriage ceremony is stated to have been conducted in Arya Samaj Mandir Khirki Trust, T-93 H, 1st Floor, (Hanuman Mandir) Khirki Village, Press Enclave Road, Malviya Nagar New Delhi-110017.

4. The Petitioner had lodged a complaint dated 2nd August, 2024 with the S.H.O. PS Kotla, Mubarakpur, Azamghar, UP. Besides, Petitioner's sister, Mrs. K *i.e.*, *Bua* of the missing girl/daughter of the Petitioner had also given a written complaint to the police on 20th July, 2024 against her husband, *i.e.*, Respondent no. 5.

5. It is the allegation of the Petitioner that the Respondent No.5 prohibits the parents from meeting the girl. Hence, the present petition. The Petitioner as also his sister, *i.e.*, the *Bua* of the missing girl were present in Court on the last date. The *Bua i.e.*, Mrs. K has a two year old son.

6. Various marriage related-relevant documents as also the marriage certificate dated 1st July 2024 which verifies the marriage of the Respondent No. 5 with the Petitioner's daughter, have been filed by the Petitioner. The same has been issued by the Arya Samaj Mandir Khirki Trust, T-93 H, 1st Floor, (Hanuman Mandir) Khirki Village, Press Enclave Road, Malviya Nagar, New Delhi-110017. The said marriage certificate reveals that the Respondent No.5 has declared himself as being "unmarried" on the basis of which the marriage appears to have been solemnized.

7. The manner in which the missing girl/Petitioner daughter's own uncle (*foofa*) has falsely declared himself to be unmarried in the marriage certificate



issued by Arya Samaj, in order to marry the Petitioner's daughter is clearly contrary to law.

8. Further, the Court has taken note of the manner in which the marriage of the Petitioner's daughter has been solemnized with the Respondent No. 5. From a perusal of the photographs of the marriage, which have been filed with the present petition, it appears that apart from the couple, nobody was present in the marriage ceremony except one *pujari/panditji*. The validity and sanctity of such marriages is completely suspect.

9. On 14th August, 2024, after hearing the Id. Counsel for the Petitioner and the Id. Standing Counsel for the State, this Court had directed as under:

“9. Under such circumstances, let the Petitioner's daughter as also the Respondent No. 5 be produced on the next date of hearing.

10. Let a representative of Arya Samaj Mandir Khirki Trust, T-93 H, 1st Floor, (Hanuman Mandir) Khirki Village, Press Enclave Road, Malviya Nagar, New Delhi-110017 be present in Court on the next date of hearing along with all the relevant records of this alleged marriage.

11. Respondent No.5 be served through the concerned SHO with direction to be present on the next date of hearing.”

10. The matter has been listed today. The girl as also the boy *i.e.*, Sh. Satendra, S/o Sh. Prem Singh, with whom she allegedly got a marriage ceremony performed, have appeared before the Court. The Petitioner, his wife and his sister - Mrs. K have also appeared. Mr. Lakhindra Rahul Singh, the trustee of Arya Samaj Mandir Khirki Trust has also appeared.

11. The facts that have emerged is that the Arya Samaj Mandir conducts marriages on the basis of documentation including affidavits which are



produced by the parties. A statement is also recorded by the girl. The Aadhar card or other Id cards of the boy and the girl as also two witnesses are collected by the *mandir*. One *Panditji* performs the marriage ceremony and the *mandir* also collects some charges. As per Mr. Singh, there are at least about 25 marriages conducted every month and during the time when the *lagna* is auspicious, there are more marriages which are conducted. The *Mandir* is only run by him and his wife, Smt. Mamta Kumari, who are the only two trustees.

12. On a query by the Court as to whether the Mandir does not enquire regarding marital status, Mr. Singh submits that the affidavits are taken and no further verification is conducted.

13. The girl who has appeared today submits that the Petitioner is not her real father and he is the second husband of her biological mother. She has known the boy *i.e.*, Mr. Satendra who is married to the Petitioner's sister for a few years now. She and Satendra are now living together after the marriage was solemnized at the Arya Samaj Mandir. In fact, even the daughter of the Petitioner, Ms. Tara Kumari has falsely stated in the marriage related documents that Mr. Satendra is unmarried. Since, the marriage itself has been solemnised on the basis of the false affidavits, it has no standing in the eyes of the law.

14. The Petitioner's sister Ms. 'K' states that she also has a young son from Mr. Satendra, who is 2 ½ years old. She alleges that she has been thrown out of her matrimonial home after the aforesaid marriage and that she should be restored to her matrimonial home. The Petitioner and his wife object to the manner in which the marriage has been solemnized and the Petitioner's sister has been thrown out of the matrimonial home.

15. It is unfortunate that Mr. Satendra has abandoned his wife/child and



claims to have got married to a girl who is his niece. This Court holds that the alleged marriage ceremony which has been conducted by the Arya Samaj Mandir, on the face of it, is a void marriage as Mr. Satendra has declared in the affidavit submitted for the marriage, that he is unmarried, when clearly his wife, Ms. K, is alive and they also have a son.

16. Insofar as, any disputes which Mr. Satendra may have with his wife, Ms. K, she may avail of her remedies in accordance with law. Mr. Satendra submits that he wishes to seek divorce from Ms. K. For the said purpose also, he has to avail of his remedies in accordance with law.

17. The wife, Ms. K, has also filed a complaint against the husband with CAW, Cell. The said complaint may be proceeded with and action be taken in accordance with law. Ms. K's legal remedies for maintenance, residence and domestic violence are also left open.

18. It is made clear that neither Mr. Satendra nor Ms. Tara Kumari, in any manner, shall cause any harassment to Ms. K.

19. The girl has been produced today. The Petitioner has met the girl, who is not willing to accompany him. Since the girl is major, no further orders can be passed.

20. The original documents which have been produced by Mr. Singh are handed over to the concerned Investigating Officer, who can investigate and proceed further as per law. A photocopy of the said documents is retained on record.

21. The Arya Samaj Mandir shall henceforth ensure that when witnesses etc. are produced for the purposes of marriage, they are genuine and bonafide witnesses, whose status can be verified properly. The temple shall endeavour to call at least 1 witness who is a relative, from both the sides, *i.e.*, the bride



and the bridegroom and if there is no relative, some acquaintance who knows the parties concerned for a reasonable period of time shall be permitted to become a witness. A copy of the present order be sent to the Chief Secretary, GNCTD for necessary information and to take appropriate measures in this regard.

22. With the aforesaid direction, the petition stands disposed of. Pending application(s), if any, also shall stand disposed of.

PRATHIBA M. SINGH
JUDGE

AMIT SHARMA
JUDGE

AUGUST 21, 2024

bsr/am/bh/NS