

**IN THE HIGH COURT OF SIKKIM  
CRIMINAL EXTRA ORDINARY JURISDICTION**

W. P. (Crl.) No. 02 OF 2016

Mr. Harka Bahadur Subba,  
S/o Late Kul Bahadur Subba,  
R/o Upper Namin,  
P. O. & P. S. Ranipool,  
East Sikkim. ----- Petitioner.

**-VERSUS-**

1. Nirmal Chaya,  
N.G.O, Tihar Jail Complex,  
Tihar Jail, New Delhi.
2. State of Sikkim,  
The Director General of Police,  
Government of Sikkim.
3. State (NCT of Delhi),  
New Secretariat, I. P. Estate, New Delhi,  
Through Commissioner of Police,  
Delhi Police Headquarter,  
I. P. Estate, Delhi ----- Respondents.

PETITIONER

ADVOCATE (S)

FOR ----- Mr. Joginder Tuli, Ms. Rachhitta Rai and  
Ms. Sushila Thapa.

RESPONDENT

ADVOCATE (S)

FOR ----- Mr. J. B. Pradhan, Public Prosecutor, Mr. Karma  
Thinlay, Addl. Public Prosecutor, Mr. S. K. Chettri  
and Ms. Pollin Rai, Asstt. Public Prosecutor.

Case No.....

| Serial No. | Date     | Order (s) with Signature (s)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| 03.        | 05.10.16 | <p><b>W.P. (Crl.) No. 02/2016</b><br/> <b>Harka Bdr. Subba vs. Nirmal Chaya, NGO &amp; Ors.</b></p> <p><b>BEFORE</b><br/> <b>MR. JUSTICE SATISH K. AGNIHOTRI, CJ.</b></p> <p>Present: Mr. Joginder Tuli and Ms. Sushila Thapa, Advocates for the Petitioner.</p> <p>Mr. J.B. Pradhan, Public Prosecutor with Mr. S.K. Chettri and Ms. Pollin Rai, Asstt. Public Prosecutors for Respondent No. 2.</p> <p>Ms. Lalita Rawat, Inspector, PS Kamla Market, Delhi for Respondent No. 3.</p> <p>...</p> <p>The instant Habeas Corpus Petition i.e. W.P.(Crl.) No. 02/2016, is filed allegedly by the father of the minor girl, namely Ms. Kunzan.</p> <p>The factual matrix, leading to filing of the instant petition, is that the said minor girl, aged about 15 years was recovered in a raid conducted by the Police Station, Kamla Market, New Delhi in Kotha No. 59, First Floor, Left Side, G.B. Road, New Delhi. The statement of the girl was recorded under Section 164 Cr. P.C., wherein she has clearly stated as to how she was made to indulge into prostitution. She was assaulted and forced to change cloths. One Gulsanam was arrested and other persons, who were named by the girl, who had taken her to the said</p> |

Case No.....

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|            |      | <p>place, are still absconding. The case is still under investigation.</p> <p>On perusal of the status report submitted by one Police Officer, it is noticed that release of the victim was strongly opposed on several grounds, mainly, the parents are illiterate and poor and they can be influenced by the alleged criminals and as such the investigation may be substantially affected. It is further noticed that the said Gulsanam had approached the High Court of Delhi in WP (Crl.) No. 2504/2016, seeking for an inquiry, wherein the learned Single Judge of the High Court has directed a vigilance inquiry to be conducted by the Commissioner of Police and submit a report.</p> <p>The girl has been brought to Sikkim and kept in 'Mamtalaya', a shelter-home and I am informed that they are taking all care. At this stage, the father, who is present in the Court, has expressed his inability to take care of his daughter and also he does not want that his daughter be sent to Delhi in search of employment.</p> <p>Be that as it may, having regard to the fact situation, it is proper in the interest of the said minor, to remain in care and custody of the 'Mamtalaya'. The 'Mamtalaya' is further directed not to permit any person to meet her or to</p> |

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|            |      | <p>talk over phone, except the parents in presence of members of Child Welfare Committee. The Government is directed to extend all assistance in view of the facts involved herein.</p> <p>At this stage, no custody can be handed over to the father for the time being. The Child Welfare Committee, Government of Sikkim under Social Justice Empowerment &amp; Welfare Department has also recommended that the said child be kept at 'Mamtalaya' as she needs proper care and protection.</p> <p>Accordingly, Child Welfare Committee is directed to visit the 'Mamtalaya' and monitor her care and protection. The 'Mamtalaya' as well as the Child Welfare Committee is at liberty to make an application for appropriate direction, if need be, in future.</p> <p>List it on 04.11.2016.</p> <p style="text-align: right;"><br/><b>Chief Justice</b><br/>05.10.2016</p> |

jk/pm Index : Yes / No  
Internet : Yes / No