



**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**HABEAS CORPUS WRIT PETITION No. - 3929 of 2018**

Shiv Kumar (Corpus ) And Another

.....Petitioner(s)

Versus

State Of U.P. And 5 Others

.....Respondent(s)

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Counsel for Petitioner(s)	:	Hemant Kumar Rai
Counsel for Respondent(s)	:	G.A., Jitendra Kumar

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**Court No. - 44**

**HON'BLE J.J. MUNIR, J.**

**HON'BLE SANJIV KUMAR, J.**

An affidavit of compliance has been filed on behalf of the Director General of Police, U.P., Lucknow by Mr. Shashi Shekhar Tiwari, learned Additional Government Advocate, in Court today. Let it be taken on record and numbered by the office.

We are not at all convinced with the explanation regarding Shiv Kumar's disappearance, who was arrested or taken into custody in connection with Case Crime No. 68 of 2018 under Section 363, Police Station- Paikolia, District- Basti. In fact, it is regarding his disappearance that the First Information Report giving rise to Case Crime No. 31 of 2021 under Sections 364/120B IPC, Police Station- Paikolia, District- Basti was registered under orders of a Division Bench of this Court dated 19.3.2021 against one Arvind Kumar, a Sub-Inspector of Police, two unknown Constables and Ravi, the brother of the victim in the elopement case. The FIR that was lodged has been quoted in our order dated 25.11.2025.

In the affidavit filed today by the Director General of Police, U.P., a stand, very unfazed by our orders, has been taken. In paragraphs nos. 17 to 29 of the aforesaid affidavit, it is stated:

"17. That it is humbly submitted that victim Kavita, daughter of Uday Bhan, stated that she left home due to anger and met Shiv Kumar at Lakhpat Nagar railway station. On her insistence, he took her along, and his father arranged their marriage in a temple. After three to four months, when they learned of the registered case, Shiv Kumar's father Mahesh left her at Rampur railway station, instructing her to leave. She traveled alone to Babhnan railway station, where she was found by her brother Ravi Kant and the police, who brought her to Paikolia police station.

18. That it is humbly submitted that the then Station House Officer Pankaj Pandey stated that Case Crime No. 68/2018 under Section 363 IPC was investigated by SI Arvind Kumar Rai. Based on the victim's statements under Sections 161 and 164 CrPC, Shiv Kumar was named as accused, and charges under Sections 366A/376(2) IPC and 5/6 POCSO Act were added. Despite repeated raids, Shiv Kumar could not be arrested, leading to issuance of Non-Bailable Warrants and proceedings under Sections 82/83 CrPC. Consequently, Case Crime No. 192/2018 under Section 174A of I.P.C. was registered against him and a charge sheet was later submitted under Sections 363/366A/376(2) IPC and 5/6 POCSO Act.

19. That it is humbly submitted that the then Station House Officer Dharmendra Kumar Tiwari stated that in Case Crime No. 31/2021 under Sections 364/120B IPC, the absconding accused Shiv Kumar (already wanted in Case Crime No. 68/2018) was continuously searched at possible locations, with raids and surveillance conducted for his recovery.

20. That it is humbly submitted that Sandeep Kumar (village watchman) and Bhupendra Kumar Mishra (home guard), both on duty in September 2018, stated that during their service they never saw Shiv Kumar at Paikolia police station, either visiting or sitting there, as depicted in pamphlets.

21. That it is humbly submitted that the cyber and surveillance team collected electronic evidence at three levels: (1) complainant and victim of Case Crime No. 68/2018, (2) complainant Mahesh and associates in Case Crime No. 31/2021, and (3) accused police officials in Case Crime No. 31/2021. Call Detail Records (CDRs), Subscriber Detail Records (SDRs), and IMEI runs were analyzed. A total of 172 CDRs, 2813 SDRs, and 18 IMEI runs were obtained. However, due

to time lapse, CDRs from 2018-2019 could not be retrieved and no conclusive information about absconding accused Shiv Kumar was found.

22. That it is humbly submitted that the Interoperable Criminal Justice System portal was checked, but no data was found against Shiv Kumar except Case Crime No. 68/2018 registered at Paikolia police station.

23. That it is humbly submitted that searches on CCTNS and JMIS coordination portals yielded no significant or progressive information about Shiv Kumar.

24. That it is humbly submitted that Cyber Cell requested account details from multiple banks (Bank of Baroda, Indian Overseas Bank, SBI, ICICI, HDFC, IDFC) in Basti district, but no beneficial information was obtained regarding accounts in Shiv Kumar's name.

25. That it is humbly submitted that examination of crime registers from 10.09.2018 to 20.09.2018 revealed no entry regarding Shiv Kumar being brought to the station.

26. That it is humbly submitted that the current SHO of Shahzadpur, Rampur, reported that visitor registers and complaint registers for 10.09.2018 to 20.09.2018 were unavailable. No missing entry for Shiv Kumar was found in CCTNS. No record of any team from Basti visiting during that period was found.

27. That it is humbly submitted that the DCRB Basti reviewed unidentified body registers from 2018 onwards, finding no match with Shiv Kumar's description. Pamphlets and search circulars were circulated across all districts, NCRB, and SCRB via email. All police stations in Basti were also directed through email and RT messages to assist in recovery.

28. That it is humbly submitted that reports dated 02.12.2025 and 03.12.2025 from the Intelligence Department and Passport Cell confirmed that no passport application or issuance was found in Shiv Kumar's name.

29. That it is humbly submitted that the SIT team publicized the search for Shiv Kumar through newspapers and social media platforms. Copy of newspaper publication clippings is being filed herewith and annexed as **Annexure No. 2** to this

affidavit."

This is not what we desired of the Director General of Police. The stand taken by him is, in short, that his men are right and the petitioners wrong.

In between the firmness of the stand shown by the Director General of Police, which we do not appreciate, and our orders there is a man, who went to the police station and *prima facie* went missing from police custody, remains untraceable. The police registers are no records to trace the whereabouts of a missing man from police custody. The allegations have to be very independently and discreetly inquired into, if there are any *bonafides* about tracing out and producing the man who was *prima facie* in police custody before he went missing long ago.

Since, this matter may now require a very thorough investigation into the FIR lodged against the Sub-Inspector and the two unknown Constables and pervasive efforts to find out the whereabouts of the victim or to ascertain the fact, if indeed it is a case of custodial death, where the policemen have murdered the missing man, the scope of the directions required to be made may well be beyond what this Court can do hearing a writ petition for the issue of a habeas corpus.

We, accordingly, direct this matter to be registered as a Criminal Misc. Writ Petition and listed before the appropriate Bench, if possible as the first case, on **12th December, 2025.**

**(Sanjiv Kumar,J.) (J.J. Munir,J.)**

**December 9, 2025**

Prashant D.