

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30592-2015

Date of Decision: December 5, 2015

Balwinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Sanjeev K. Banga, Advocate,
for the petitioner.

Mr. K.S. Pannu, DAG, Punjab.

Mr. G.S. Maur,
Deputy Director, Social Security, Women and Children
Development Department, Punjab, Chandigarh.

Mr. Satpal,
Executive Engineer (Civil), Jalandhar Development
Authority, Jalandhar.

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| 1. | <i>Whether Reporters of local papers may be allowed to see the judgment?</i> | YES |
| 2. | <i>To be referred to the Reporters or not?</i> | YES |
| 3. | <i>Whether the judgment should be reported in the Digest?</i> | YES |

NARESH KUMAR SANGHI, J (Oral)

This case belongs to a young destitute girl, Ms. Harpreet Kaur. The facts of this case are such that this Court deemed it fit to exercise its inherent powers enshrined under Section 482, Cr.P.C., to come forward for her rescue and

betterment in future life.

Brief facts of the case are that Ms. Harpreet Kaur (whose date of birth is January 26, 1999), daughter of late Shri Jasbir Singh, permanent resident of village Verpal, District Amritsar, after the death of her father, who was an employee with the Punjab Roadways, was living with her mother, Smt. Harjinder Kaur.

Mother of Harpreet Kaur was tried, convicted and sentenced to undergo rigorous imprisonment for seven years in a case, for the offence punishable under Section 120-B read with Section 376, IPC. During the investigation of the said criminal case, Harpreet Kaur was produced before learned Area Judicial Magistrate for getting her statement recorded under Section 164, Cr.P.C. After recording the said statement, Harpreet Kaur was sent to the State Protection Home, Jalandhar, on 3.8.2013 (as disclosed by learned counsel for the parties) and since then she is residing in the said protection home.

One Balwinder Singh, posing himself to be maternal uncle of Harpreet Kaur, has filed the present petition under

Section 482, Cr.P.C., with the prayer that the custody of Harpreet Kaur be handed over to him.

During pendency of the present petition, Harpreet Kaur was summoned by this Court and she expressed her wish to live with the petitioner, Balwinder Singh. Since Harpreet Kaur was about 16-year old, therefore, before passing any order, this Court thought it appropriate to summon the petitioner before this Court to judge whether Balwinder Singh would be in a position to watch and take care of the welfare of Harpreet Kaur .

On 2.11.2015, the petitioner, Balwinder Singh, appeared before this Court. In the presence of learned counsel for the petitioner as well as State, this Court put certain questions to Balwinder Singh and found that he is not the real maternal uncle of Harpreet Kaur. In fact, what was disclosed by Balwinder Singh was that Harjinder Kaur (mother of Harpreet Kaur) had been living as a tenant in his (petitioner) house and, as such, after conviction and sentence of Harjinder Kaur, the petitioner wanted to maintain Harpreet Kaur.

In this view of the matter, vide order dated

2.11.2015, this Court came to the conclusion that the petitioner, Balwinder Singh, would not be in a position to safeguard the welfare of Harpreet Kaur and that further confinement of Harpreet Kaur in the State Protection Home, Jalandhar, without any valid reason, was not justified. This Court has also put certain questions to Harpreet Kaur and she has expressed her willingness to complete her further studies.

In the backdrop of aforementioned facts and circumstances of the case, learned counsel for the State was directed to seek instructions from the Government of Punjab as to how and in what manner the young girl of aged about 16-year, can be protected from unwanted elements and further that what mechanism be adopted so that she might complete her studies.

On 16.11.2015, when the matter came up for consideration, Mr. G.S. Maur, Deputy Director, Social Security, Women and Children Development Department, Punjab, Chandigarh, had appeared before this Court. After taking instructions from him, learned counsel for the State apprised to this Court that other than 'State Protection Home, Jalandhar',

where Ms. Harpreet Kaur, is presently residing, there is a separate 'Children Home' at Jalandhar, which has been set up and being run by the Social Security, Women and Children Development Department, Punjab. He further submitted that in the premises of the 'Children Home, Jalandhar', the Government is running a school upto 12th standard. There are thirty-seven young girl/inmates in the 'Children Home, Jalandhar', who are studying in the said school alongwith other students. He further submitted that if Ms. Harpreet Kaur is shifted to the 'Children Home, Jalandhar', then the Government of Punjab would not only provide her free lodging and boarding, but would also provide her free education upto 12th standard.

In response to the said suggestion, learned counsel for the petitioner had pointed out that in the month of March, 2015, a Hon'ble Judge of this Court had visited the 'Children Home, Jalandhar', and the school set up in the said premises and found that the atmosphere was not congenial for the inmates.

However, learned counsel for the State insisted that things have improved and it will be for the betterment of Ms. Harpreet Kaur to shift her from 'State Protection Home, Jalandhar', to the 'Children Home, Jalandhar'.

Considering the gravity of the case, this Court directed learned Chief Judicial Magistrate-cum-Secretary, District Legal Services Authority, Jalandhar, to visit the Children Home, Jalandhar, and submit a detailed report as to whether it would be appropriate to shift Ms. Harpreet Kaur to the 'Children Home, Jalandhar', so that she may live there till she attains majority and during the said period she may also complete her studies. It was also directed that while visiting the Children Home, Jalandhar, learned Chief Judicial Magistrate would take Ms. Harpreet Kaur alongwith him/her, enabling her to visit the Children Home, Jalandhar, and the school situate in the said premises so that she (Harpreet Kaur) may also make up her mind to live there till she attains majority.

In compliance of the above, learned Chief Judicial Magistrate-cum-Secretary, District Legal Services Authority, Jalandhar, after visiting the Children Home, Gandhi Vanita Ashram, Jalandhar, and inquiring about the school, namely, Government Girls High School, Gandhi Vanita Ashram, sent her detailed report dated 1.12.2015, alongwith with the statements of concerned authorities and photographs of existing buildings as well as the buildings which have been newly constructed at

Jalandhar for the purposes of Children Observation Home, Hostel of Observation Home, School of Children Home. It is apt to reproduce the operative part of the report received from learned Chief Judicial Magistrate-cum-Secretary, District Legal Services Authority, Jalandhar, which is as under:-

“ The undersigned personally took Ms. Harpreet Kaur to show her the school and home and she seemed satisfied and agreeable to move to the Home at Gandhi Vanita Ashram.

In this regard in my opinion it would be appropriate to shift Ms. Harpreet Kaur from the State Protective Home Jalandhar to the Children Home, Gandhi Vanita Ashram, Jalandhar for her betterment as there are all the amenities available for her boarding and lodging and also education. I would further like to bring it into your kind notice that recently computer training facility has been started within the compound of Children Home for Girls, Gandhi Vanita Ashram to train them in this stream. Computers have been provided by some educational institutions with the efforts of District Legal Services Authority, Jalandhar. Photographs of the newly built Children Home building as well as the school along with the existing building are being sent herewith for further necessary action please (ANNEXURE-3). However, the only concern

would be for providing of security for Ms. Harpreet Kaur for taking her to school adjoining and back to home Gandhi Vanita Ashram, Jalandhar, till the completion of building under construction. It is pertinent to mention here that the construction process of new building is very slow. And it is for the betterment of all the inmates if it would complete as soon as possible in future, so the other inmates in the observation home and children home get education with Harpreet Kaur in future.”

On 3.12.2015, during the course of hearing modalities of further action in the present case were discussed. Mr. G.S. Maur, Deputy Director, Social Security, Women and Children Development Department, Punjab, Chandigarh, submitted that the new buildings of children home (hostel)/ observation home (hostel) and school of children home have been constructed but some cosmetic works are to be done only and if the agency responsible for completing the said buildings would hand over the same to Social Security, Women and Children Development Department, Punjab, then the girls residing in the children home/observation home would be immediately shifted to respective hostels and the school would also start functioning in

the new building immediately thereafter.

In response thereto, learned counsel for the State stated that the Chief Administrator, Jalandhar Development Authority, has to look after the construction work of the said buildings and he assured that a responsible Officer of the said Department would remain present in the Court on the next date of hearing to explain to this Court with regard to handing over the possession of the said buildings to the Department concerned for further necessary action. Accordingly, the matter was adjourned for today.

Today, Mr. Satpal, Executive Engineer (Civil) has put in appearance after taking instructions from the Chief Administrator, Jalandhar Development Authority, Jalandhar. He states at the bar that after accomplishing all the works, the possession of the newly constructed buildings of Children Home, Observation Home, Children Home for Girls and Gandhi Vanita Ashram School, Jalandhar, would be handed over to the concerned department(s) on or before 28.2.2016.

Learned counsel for the State after obtaining instructions from Mr. G.S. Maur, Deputy Director, Social Security, Women and Children Development Department, Punjab,

Chandigarh, submits that from March, 2016, not only the School will start functioning in the above stated premises, but the inmates would also be shifted to their new abode. It has also been contended that Ms. Harpreet Kaur, the alleged aggrieved girl, would also be shifted to the new hostel and she will be admitted in the school to be shifted in the new building. It has also been contended that every possible facility for convenient residence as well as for parting education to Ms. Harpreet Kaur would be made by the State Government.

In view of above statement, this Court is satisfied that for all round betterment of Ms. Harpreet Kaur, it would be appropriate to hand over her custody to the Social Security, Women and Children Development Department, Punjab, which will take care of her boarding, lodging and schooling etc. till she attains the age of majority. It is further directed that learned Chief Judicial Magistrate-cum-Secretary, District Legal Services Authority, Jalandhar, shall continue to supervise the welfare of Ms. Harpreet Kaur.

Till the time the aforementioned school and hostel etc. starts functioning in the new buildings, Ms. Harpreet Kaur shall remain in the State Protection Home, Jalandhar.

In view of above directions, learned counsel for the petitioner does not press this petition at this stage. He is permitted to withdraw the present petition.

A copy of this order be given dasti to learned counsel for the State under the signatures of the Court Secretary, for onward transmission to all the concerned.

(NARESH KUMAR SANGHI)
JUDGE

December 5, 2015
P Kapoor