

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. W.P. No. 1207 of 2015

DATE OF DECISION: 01.10.2015

Tek Chand

.....Petitioner

Versus

State of Haryana and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. **Whether reporters of local newspaper may be allowed to see judgment? (Yes/No)**
2. **To be referred to reporters or not? (Yes/No)**
3. **Whether the judgment should be reported in the Digest? (Yes/No)**

Present:- Mr. Naveen Sharma, Advocate
for the petitioner.

Mr. Baljinder Singh Virk, DAG, Haryana.

Mr. Arpan Sabharwal, Advocate
for respondents No. 4 to 7.

DAYA CHAUDHARY, J.

The present petition has been filed for issuance of a writ in the nature of habeas corpus for release of detenue, namely, Sabita @ Savita, wife of the petitioner, who is stated to be in the illegal confinement of respondents No. 4 to 7.

Notice of motion was issued on 26.8.2015 and a direction was also issued to SHO, Police Station Camp, Palwal to ensure the presence of alleged detenue before this Court on the next date of hearing.

In compliance of aforesaid direction, the alleged detenue was produced before this Court on 14.9.2015. Reply by way of an affidavit of

Deputy Superintendent of Police, Palwal was also filed on that day. It was mentioned in the reply that as per certificate issued by Municipal Council, Palwal, date of birth of alleged detainee is 30.5.1997, whereas, in another document i.e. Secondary Examination Certificate issued by Board of School Education, Haryana, date of birth of alleged detainee has been mentioned as 7.3.1999. Respondent No.4-father as well as two maternal uncles of the detainee were also present in the Court on that day. As per stand of respondent No.4 (father of alleged detainee), there was no entry in the record of Municipal Council, Palwal and if any entry is there, the same is forged one. The date of birth as mentioned in Secondary Examination Certificate is correct. Learned counsel for the respondent-State was directed to verify from the Investigating Officer as to what is the authenticity of the date of birth as mentioned in the record of Municipal Council as well as in the Secondary Examination Certificate. He was also asked to verify as to whether the date of birth of detainee at the time of admission in school was recorded at the instance of her father or not.

Learned State counsel has produced a photo copy of the Register reflecting the date of birth of the detainee duly signed by the Registrar, Births and Deaths, wherein, at Sr. No. 1014, date of birth of detainee is mentioned as 30.5.1997. Similarly, the record with regard to entry of date of birth in the School record has also been produced before this Court. The certificate signed by Principal, Government Girls Sr. Sec. School, Palwal (Camp), Palwal has been produced along with the record, wherein, it has been mentioned that as per record, the detainee took admission in 1st standard and her date of birth was mentioned as 7.3.1999, which was got entered at the instance of the father of the girl. Thereafter, the same date has been mentioned in 6th standard as well as in 9th standard. The Record of the School as well as of the Municipal Council,

Palwal is taken on record as Annexures A-1 and A-2, respectively.

On perusal of the aforesaid documents, it will not be possible to decide as to which date of birth is correct but on the asking of the Court from the detainee, she has stated that she has solemnized marriage with the petitioner and both of them filed Crl. Misc. No. M-15415 of 2015 before this Court for protection of their lives and liberty as serious threat was there at the instance of her parents and relations. Said petition was disposed of vide order dated 12.5.2015.

Nothing can be said on the validity of the marriage in this petition being habeas corpus. It is to be seen as to whether the alleged detainee is in illegal custody of private respondents or not. The detainee herself has stated that she is interested in remaining with her husband as she is happy in her matrimonial life. The alleged detainee, namely, Sabita @ Savita is allowed to accompany her husband, who has been identified by the counsel for the petitioner. The petitioner just to show the bona fide undertakes to deposit an amount of ₹ One lac in the shape of fixed deposit for a period of three years in the name of alleged detainee, namely, Sabita @ Savita within a period of two weeks from the date of receipt of copy of the order.

Petition stands disposed of accordingly.

October 05, 2015
pooja

(DAYA CHAUDHARY)
JUDGE