

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRWP No.1231 of 2015

Date of Decision:-28.08.2015

Uday Singh

...Petitioner

Versus

State of Punjab & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE SHEKHER DHAWAN

Present:- Mr.Vinay Kumar Gupta, Advocate for the petitioner.
Mr.Varun Sharma, AAG Punjab for respondent Nos.1 to 3.
Respondent No.5 in person with Mr.Karamjit Singh
Takhtupura, Advocate.

SHEKHER DHAWAN, J.

Power of attorney filed on behalf of respondent No.4 today in Court is taken on record. The detinue is present in Court, she has appeared along with respondent No.5 and made the following statement:-

“Stated that on 29.7.2015 I left the house of my father Uday Singh with my free consent and without any allurements at the hands of Jagsir Singh (respondent No.4). I performed the marriage with Jagsir Singh s/o Buta Singh with my free consent on 10.8.2015 and since then I am residing with him as his legally wedded wife. I want to stay with my husband Jagsir Singh at his residence and do not want to go with my father Uday Singh.”

Learned counsel for petitioner contended that Manpreet Kaur is minor as she is less than 18 years of age and she cannot legally give consent for marriage with respondent No.4 and at present, she is under the guardianship of her father, Uday Singh, who is petitioner before this Court.

Separate FIR has already been registered against respondent No.4 i.e. for

kidnapping (FIR No.79 dated 31.7.2015 under sections 363 and 366-A IPC at Police Station Badni Kalan, District Moga). So, custody of Manpreet Kaur be entrusted to her father, who is her natural guardian as she is less than 18 years of age and is unable to give consent for marriage as per law.

Learned counsel for respondent No.4 urged that marriage has already been performed by Manpreet Kaur with Jagsir Singh of her own and she is now living happily with him and she does not want to go back to the house of her father. So, the present petition be dismissed. In support of the argument, learned counsel for respondent No.4 placed reliance upon judgement of Hon'ble Division Bench of Delhi High Court in case **Jitender Kumar Sharma Vs. State & Another 2010(4) RCR (Criminal) 20**, wherein similar law point was discussed.

Having considered the arguments advanced by learned counsel for parties, statement made by Manpreet Kaur in the Court in person with her counsel that she wants to stay with her husband Jagsir Singh, who is her natural guardian after marriage. She does not want to go back with the petitioner, who is her father. As per above judgement of Hon'ble Division Bench of Delhi High Court in **Jitender Kumar Sharma's case (supra)**, in such cases, guardian of minor after her marriage is her husband and her custody cannot be compelled to be with her father. Rather it is to be decided as per the wishes of such a girl. In the present case, Manpreet Kaur is living with her husband happily and present writ petition filed by Uday Singh petitioner is without any merit and same stands dismissed.

August 28, 2015

AS

(SHEKHER DHAWAN)
JUDGE