

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Writ Petition No. 212 of 2015

DATE OF DECISION: 02.09.2015

Gurpreet Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspaper may be allowed to see judgment?**
- 2. To be referred to reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present:- Mr. M.S. Atwal, Advocate
for the petitioner.

Mrs. Ritu Punj, Addl. A.G., Punjab.

Mr. Satbir Rathore, Advocate
for respondents No.4 to 6.

DAYA CHAUDHARY, J.

The present petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of habeas corpus read with Section 482 Cr.P.C. directing respondents No.2 and 3 for release of the child of the petitioner, namely, Aadil Bhatt @ Anshpreet (alleged detainee), who is in the illegal custody of respondents No.4 to 6.

Petitioner is the mother of alleged detainee, who is stated to be in illegal custody of respondents No.4 to 6. Respondent No.4 is second wife of earlier husband of the petitioner. There was a divorce between the petitioner and husband of respondent no.4 Respondent No.5 is grandfather of the alleged detainee, whereas, respondent No.6 is grandmother. At the time of filing of this petition, father of the alleged

detenue was in custody, therefore, he is not party in the case.

Admittedly, the matter for handing over the custody of the child is pending for the last five years before Additional Civil Judge (Senior Division) Dasuya. The present petition came up for hearing on 30.7.2015 before this Court and it was mentioned in the order that petitioner as well as respondents No.4 to 6 will cooperate with the trial Court in early disposal of the guardian case. Today the child (alleged detenue) is present in the Court along with his father, who has now been released on bail. The petitioner, who is mother of the child and private respondents as well as father of the child are claiming custody of the child by raising various grounds but the matter is pending before the Civil Court for the last more than five years. Undoubtedly, the interest of the minor child is to be seen as to who will take the custody of the child. Petitioner-mother is stated to be earning as she is working as an Architect, whereas, father of the child is working with his father, who is running a dry-clean shop. All these things are to be considered by the civil Court at the time of deciding the matter of handing over the custody of the child. The limited prayer in the present petition is for release of the child, who is stated to be in illegal custody of respondents No.4 to 6. Nothing can be said at this stage by this Court when the matter is already pending before the Civil Court.

After hearing learned counsel for the parties and keeping in view the interest of the child, the present petition is disposed of with a direction to learned Additional Civil judge (Senior Division), Dasuya to make all possible efforts to conclude the trial preferably within a period of four months. It is also clarified that either of the parties will not take any unnecessary adjournment in the case.

September 02, 2015
pooja

(DAYA CHAUDHARY)
JUDGE