

CRWP-560-2015

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

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Date of Decision:30.04.2015

Rinku

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

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

Present: Mr. S.S.Rana, Advocate,
for the petitioner.

Mr. S.S.Chandumajra, DAG, Punjab.

Mr. Sandeep Kuamr, Advocate,
for respondent No.5.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of habeas corpus, directing respondent Nos.3 to 5 to produce legally wedded wife of petitioner, namely Sarabjit Kaur, along with minors, who are allegedly in the illegal custody of respondent Nos.4 and 5.

The petitioner has filed the present petition with the averments that he married Sarabjit Kaur, daughter of respondent No.5.

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Two children were born from this wedlock. The wife of petitioner had gone to the house of respondent No.5 along with children and now her whereabouts are not known. She along with her children is in the illegal confinement of respondent no.4. Neither, respondent Nos.4 and 5 are allowing the petitioner to meet his wife and children, nor they are disclosing her whereabouts. Respondent No.4, who is already married and having two children, started living with respondent no.5 as tenant and he enticed away the wife of petitioner and children. The alleged detainee has also got registered a false and frivolous case against the petitioner and his family members under Sections 406 and 498-A of the Indian Penal Code. Respondent Nos.4 and 5 in connivance with each other got extracted ₹40,000/- and ₹10,000/- as expenses from the petitioner and further the petitioner was threatened to pay ₹50,000/- more and only then his wife and children would be sent with him. The petitioner has also filed petition under Section 9 of the Hindu Marriage Act. Respondent No.4 has neglected his own wife-Soni and children. The above fact is mentioned by Soni in her affidavit. The petitioner has apprehension that future of his children would be destroyed as his wife and children are in the illegal confinement, rather she is living in adultery with respondent No.4. Hence, this habeas corpus.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner relies upon affidavit of

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Smt. Soni (Annexure P-1) wherein it is specifically mentioned that her husband-Dhanjit has enticed away alleged detenue-Sarabjit Kaur along with her two children and they were earlier residing with respondent No.5-Amarjeet Kaur.

This Court did not appoint Warrant Officer, however, issued direction to respondent No.3-Station House Officer, Police Station City Khanna, District Ludhiana to produce respondent Nos.4 and 5 as well as alleged detenue along with minors. In pursuance of the direction issued by this Court, alleged detenue-Sarabjit Kaur along with minor children and her mother-respondent No.5 have been produced in the Court. The alleged detenue-Sarabjit Kaur, who has been identified by Sub Inspector Ajit Pal Singh states that she is voluntarily staying with her widow mother, not with any other person and proceedings under Section 125 Cr.P.C. have been filed against the petitioner.

This Court is not conducting roving inquiry into these facts and this is a habeas corpus petition under Article 226 of the Constitution of India.

If the petitioner is at all aggrieved against the misconduct of alleged detenue and wants the custody of children, he should have approached the competent court and availed the remedy in accordance with law.

The allegations levelled against the alleged detenue and the averments made in the petition are absolutely a tissue of lies. The

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petitioner instead of availing proper remedy available to him in accordance with law, has filed this vexatious, frivolous and oppressive petition in order to harass the private respondents and alleged detinue. The petitioner has virtually wasted the valuable time of this Court as well as police authorities. Thus, the petition is dismissed with costs quantified as ₹50,000/- for filing vexatious and frivolous petition and wasting time of this Court. The costs shall be deposited with the State Legal Services Authority, Punjab within two months from today. The petitioner is also burdened with costs of ₹25,000/- as litigation expenses to be paid to respondent No.5 for engaging counsel. The costs, if not paid, shall be recovered as arrears of land revenue.

30.04.2015
parveen kumar

(Paramjeet Singh)
Judge