

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CRM-M-3303-2016

Date of Decision: February 12, 2016

Anchal Kumar and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Petitioners in person with
Mr. Harjeet Savra, Advocate.

Mr. Piyush Bansal, DAG, Punjab,
for respondent Nos. 1 to 3.

Mr. Ravi K. Mattoo, Advocate,
for respondent Nos. 4, 5 and 6.

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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)

Prayer in this petition, filed under Section 482,

Cr.P.C., is for issuance of a direction to respondent Nos. 1 to 3 to protect the lives and liberty of the petitioners at the hands of respondent Nos. 4 to 6.

Notice of the petition was issued and in pursuance thereof learned counsel for the State, for respondent Nos. 1 to 3, and Mr. Ravi K. Mattoo, for respondent Nos. 4 to 6, have appeared. Both the petitioners have appeared in person alongwith their counsel, Mr. Harjeet Savra.

In the pre-lunch session, respondent Nos. 4 and 5 through their counsel requested the Court to arrange their meeting with their daughter/petitioner No. 2, Gagandeep Kumari. The request was accepted and petitioner No. 2, Gagandeep Kumari, was asked to meet her parents and talk with them in the Court room itself.

The case was again taken up at 04:00 p.m., then the statement of petitioner No. 2, Gagandeep Kumari, on oath was recorded separately in CRWP-132-2016, which was filed by respondent No. 4 under Article 226 of the Constitution of India, for issuance of a writ in the nature of habeas corpus.

In her statement, Gagandeep Kumari disclosed that she had left the house of her parents with her own free will and consent and wanted to live with her boy-friend Anchal Kumar

and his family members. She further stated that no one had forced her to leave the house of her parents and she was not detained in illegal confinement.

Learned counsel for the petitioners submits that since petitioner No. 2, Gagandeep Kumari, wants to solemnize her marriage with petitioner No. 1, Anchal Kumar, after attaining majority, therefore, private respondent Nos. 4 to 6 are bent upon to cause physical harm to the petitioners. He further submits that appropriate direction be issued to respondent Nos. 1 to 3 to provide police protection to the petitioners so that their lives are protected.

Learned counsel for the State submits that if directions are issued by this Court then adequate protection would be provided to the petitioners.

Learned counsel for respondent Nos. 4 to 6 has vehemently opposed the prayer of the petitioners on the premise that petitioner No. 2, Gagandeep Kumari is a minor and her custody with Anchal Kumar is not appropriate. He further submits that the private respondents have never issued any threats or in future they would not cause any threat or damage to the persons or reputation of the petitioners. He further submits that in view of the statement suffered by petitioner No. 2,

Gagandeep Kumari, today in the Court that she did not want to accompany her parents, then she should be sent to the Nari Niketan.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

There is no force in the submission of learned counsel for respondent Nos. 4 to 6 to send petitioner No. 2, Gagandeep Kumari, to the Nari Niketan. It is settled law that a girl, even if minor, cannot be sent to the Nari Niketan without her consent because if it is done then the same would tantamount to illegal custody. In this regard reference is made to the judgments delivered in the cases of **Neetu Singh v. State**, 1999 (3) R.C.R. (Criminal) 26 (D.B.); **Smt. Saroj v. State of U.P. and others**, 2012 (93) ALR 37; **Balwinder Singh @ Binder v. State of Punjab and others**, 2008 (3) R.C.R. (Criminal) 1; **Shamsher v. U.T. Chandigarh and another**, 2011 (5) R.C.R. (Criminal) 677; **Surekha v. State of Haryana** (CRM-M-11923-2013 (O&M), decided on 15.5.2013 by this Court); and **Sabba Singh @ Sarbjeet Singh @ Harmanpreet Singh v. State of Punjab and others** (CRM-M-5899-2014, decided on 9.4.2014 by this Court).

Keeping in view the totality of the facts and circumstances of the case, present petition is disposed of with a direction to respondent Nos. 2 and 3 to protect the lives and liberty of the petitioners as and when required to do so in accordance with law.

(NARESH KUMAR SANGHI)
JUDGE

February 12, 2016
Pkapoor