

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

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CRWP-1069-2015

Date of Decision : 20.09.2016

MAKHANDDIN AND ANOTHER

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ORS

.....RESPONDENT

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Manoj Tanwar, Advocate
for the petitioners.

Mr. P.S. Paul, DAG, Punjab.

Mr. Chanan Singh, Advocate
for respondents No. 6 and 8.

AJAY TEWARI, J. (Oral)

This is a petition for Habeas Corpus in respect of the daughter of the petitioners.

Learned counsel for the petitioners has argued that this is a case where there is depravity in so much as minor daughter of the petitioners had been got married to both brothers i.e. private respondents No. 5 and 8.

Learned counsel for respondents No. 6 and 8 has argued that actually petitioners' daughter had ran away with respondent No.8 and they

were given protection by this Court. Inadvertently out of anxiety, a civil suit was filed in Jalandhar and in place of respondent No.8 inadvertently respondent No.5 was mentioned. The petitioners cannot get benefit of that inadvertent error.

On 12.02.2016, the following order was passed:

*Present:-Mr. Manoj K. Tanwar, Advocate,
for the petitioners.*

*Mr. Rupam Aggarwal, DAG,
Punjab.*

*None for respondents No.5, 7 and
8.*

*Mr. Chanan Singh, Advocate
for respondent No.6.*

The alleged detenue, namely, Veena has been heard in Chamber. She has stated that it was not a case of kidnapping as she solemnized marriage with respondent No.8-Kalu as per her free will. She has also stated that Yakub Ali is her brother-in-law and no petition was filed by her at Jalandhar.

Learned counsel for the petitioners on instructions from the petitioners, submits that Kalu is already married with one Juna daughter of Bhashin whereas mother of Kalu, who is present in the Court, submits that Juna is her daughter and Kalu has not

married earlier.

Learned counsel for respondent No.6 submits that in the petition, which was filed by Yakub Ali and Veena at Jalandhar, the name of Yakub Ali was inadvertently mentioned by the counsel, who has filed the petition whereas Veena is married to Kalu.

The petitioners are directed to file their affidavit stating therein the facts, which have been mentioned before this Court while appearing in person.

Learned counsel for respondent No.6 is also directed to verify this fact from the counsel, who has filed the petition at Jalandhar.

Respondent No.8-Kalu, who is alleged to be the husband of the detenue, is also directed to be present in the Court on the next date of hearing.

Meanwhile, arrest of respondent No.8 is stayed till further orders.

The age of detenue-Veena is a disputed question of fact, which cannot be decided at this stage but it is apparent that she is not in illegal custody as she has solemnized marriage with respondent No.8-Kalu but because of pendency of the petition that has been filed by her and Yakub Ali at Jalandhar and for verification of the factum of marriage, the present petition is adjourned to 19.02.2016.

The alleged detenue-Veena is allowed to accompany her mother-in-law, namely, Jaano and

sister-in-law (Jethani), namely, Sadhika and she is directed to be present in the Court on the next date of hearing.

Senior Superintendent of Police, Hoshiarpur is directed to ensure protection of detenue-Veena at the hands of the petitioners."

On 19.02.2016, the following order was passed:

"Present: Mr. Manoj K. Tanwar, Advocate for the petitioners.

Mr. Rupam Aggarwal, DAG, Punjab.

None for respondents No.5 & 7.

Mr. Chanan Singh, Advocate for respondents No.6 & 8.

Learned counsel for respondents No.6 and 8 submits that inadvertently or due to mistake of the lawyer who filed the civil suit, name of Yakub Ali who is the bother of Kalu was mentioned in place of Kalu whereas Yakub Ali was not the party.

Just to verify the facts, let the records of Civil Suit No.1386 of 2015 pending in the Court of Sh. Gursher Singh, Civil Judge, Jalandhar be called for 09.03.2016.

Parties are directed to be present in the Court on the next date of hearing.

On 11.04.2016, the following order was passed:

"Present: Mr. Manoj K. Tanwar and Mr. S.S. Sandhu, Advocates for the petitioners.

*Mr. Rupam Aggarwal, DAG,
Punjab.*

*Mr. Chanan Singh, Advocate for
respondents No.6 & 8.*

*Mr. Chanan Singh, learned counsel appearing
for respondents No.6 and 8 submits that respondents No.6
and 8 are ready to file their respective affidavits with
regard to the mistake committed by the lawyer who was
representing them before the lower Court.*

Request is accepted.

*The dates as well as the place of marriage
should also be mentioned in the affidavits.*

Adjourned to 20.05.2016.

*Meanwhile, the petitioners are also at liberty to
place on record their affidavits.*

*Respondents No. 5 to 8 are also directed to be
present in the Court on the next date of hearing."*

Affidavit have also been filed by respondents No. 6 and 8 in this regard.

Learned counsel for respondents No. 6 and 8 has argued that the marriage of Muslim girl cannot be held to be illegal after she attains the age of

puberty.

Keeping in view all the facts , in my opinion no further action is
needed to be taken.

Petition stands dismissed.

September 20, 2016
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned -

Yes/No

Whether reportable

-Yes/No