

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

CRWP-1665-2015

Date of Decision: January 11, 2016

Komal Garg

.....Petitioner

Versus

State

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

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

Present: Petitioner in person with
 Ms.Ashima Mor, Amicus Curiae.

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

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NARESH KUMAR SANGHI, J.(ORAL)

Despite service and information by the police, parents of petitioner-Komal Garg have refused to accept the notice and to come to the Court. The case has been called and no one has put in appearance on their behalf.

An inland letter received in the Secretariat of Hon'ble

the Acting Chief Justice from the petitioner, Komal Garg, was ordered to be treated as a criminal writ petition. The notice of the said petition was issued to the State.

Ms.Ashima Mor, Advocate, was appointed as Amicus Curiae to defend the interest of the petitioner.

Vide order dated 21.12.2015, a Coordinate Bench had directed to produce the petitioner, Komal Garg, before this Court on 06.01.2016. On the adjourned date after interacting with Komal Garg in the open Court it was ordered to summon her parents, but despite service they have failed to appear. After lunch when the case was taken up, the petitioner, Komal Garg, was produced by ASI Mewa Singh and Lady Constable Amrit Pal Kaur, Police Station, City, Samana, District Patiala. Komal Garg stated that she had solemnised the marriage with her free will and consent with Baljit Singh and she wanted to reside at her in-laws' house at Samana, District Patiala. To judge the veracity of her statement, Ms.Ashima Mor, Advocate, Amicus Curiae for the petitioner and Ms.Ritu Pathak, Advocate, both present in Court, were requested to accompany Komal Garg in the chamber of this Court to interact and to know whether Komal Garg was making the statement out of her free will and consent or under any

pressure.

After interacting for some time with Komal Garg, Ms.Ashima Mor, Advocate, Amicus Curiae and Ms.Ritu Pathak, Advocate, were in unison that Komal Garg was genuinely stating that she had solemnized her marriage with Baljit Singh and wanted to reside at her in-laws' house at Samana.

It is apposite to mention here that learned counsel for the State has stated at bar that Komal Garg is neither required nor involved in any other criminal case.

Even if the girl is minor she cannot be detained against her wishes. Reliance can be placed upon a Division Bench judgment of Allahabad High Court in the case of **Smt.Saroj vs. State of U.P. and others**, 2012 (93) ALR 37 and a judgment of this Court passed in **Surekha vs State of Haryana** (CRM-M-11923-2013, dated 15.05.2013).

In view of the above, the present criminal writ petition is disposed of with a direction that Komal Garg daughter of Sh.Surinder Kumar, resident of Anand Colony, near Modgil Computer Centre, Samana, be set at liberty from Gandhi Vaneeta Ashram, Kapurthala Road, Jalandhar, where she is presently confined, if not required in any other case.

A copy of this order be given to learned counsel for the State under the signatures of the Court Secretary.

January 11, 2016
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(NARESH KUMAR SANGHI)
JUDGE