

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

CRWP No.1303 of 2016 (O&M)

Date of decision : 17.10.2016

Prachi Malhotra @ Shimpay

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Amit Jain, Advocate for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab

Mr. Mandeep Kaushik, Advocate for respondent Nos.6 to 9.

JITENDRA CHAUHAN, J. (Oral)

By way of present petition the petitioner has sought the issuance of a writ in the nature of Habeas Corpus for releasing detenues- Manan and Mayank from illegal custody of respondent Nos.6 to 9; issuance of writ in the nature of Mandamus to direct respondent Nos.2 to 5 to provide the police protection to the petitioner; and for issuance of directions to respondent Nos.2 to 5 not to let respondent Nos.6 to 9 forcefully kidnap the petitioner.

The learned counsel for the petitioner states that due to the non-fulfillment of the demand of respondent Nos.6 to 9 for dowry, they harassed the petitioner and threw her out of the matrimonial home and took the custody of her two sons, namely, Manan and Mayank forcefully.

On the other hand, the learned counsel for respondent Nos.6 to 9 has furnished the copy of written version of telephonic conversation between one, Monty and the petitioner which is taken on record as Mark 'A' and states that there is an illicit relationship between them. He further informs that when the petitioner had left the matrimonial home on 10.09.2016, respondent No.6-Vikas, husband of the petitioner had lodged the DDR No.21 dated 10.09.2016. Copy of the same has been furnished in the Court and is taken on record as Mark 'B'. He refers to the statement of the mother of the petitioner, namely, Mamta Lumba wherein she also stated that the petitioner had left her matrimonial home with Monty.

I have heard the learned counsel for the parties and carefully perused the entire record on file.

When the petitioner left her matrimonial home with Monty, respondent No.6 had lodged the DDR No.21 dated 10.09.2016. CW1-Mamta Luthra, mother of the petitioner also admitted that her daughter i.e petitioner, had left the matrimonial home with Monty. From the written version of telephonic conversation of the petitioner and Monty (Mark 'A') and statement of none other than mother of the petitioner (Mark 'B'), it emerges that the petitioner and Monty were in illicit relationship. The

welfare of the children deserved to be accorded highest concern in the circumstances. In the present case, this Court feels the children are in fact in the safe and legal custody of their paternal family and the claim of the petitioner finds no merit in the light of her own controversial conduct. In these circumstances, for the welfare of the children, this Court finds no ground to grant the relief sought by the petitioner in this criminal writ petition. The petitioner is not entitled to any relief in this writ petition as alternative remedy under the Guardians and Wards Act is available to her.

Accordingly, the instant petition is dismissed.

17.10.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No