

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

Sr. No.148

CRWP No. 591 of 2016

Date of decision : May 02, 2016

Rahul Kumar

...Petitioner...

versus

State of Haryana and others

...Respondents...

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Kunal Dawar, Advocate,
for the petitioner.

JASPAL SINGH, J.

This petition has been preferred by Rahul Kumar under Article 226 of the Constitution of India seeking issuance of a writ in the nature of habeas corpus directing respondents No.2 & 3 to recover his wife namely Shikha from the illegal custody of respondents No.4 to 7 and hand over to him or his family members and to appoint a warrant officer to recover his wife from the illegal custody of respondents No.4 to 7.

The contention of the learned counsel for the petitioner is that respondents No.4 to 7 are the mother, brother and uncles of Smt. Shikha. The petitioner as well as Shikha are major and decided to get married without the consent of respondents No.4 to 7 and

other family members. Having left with no option, Smt. Shikha of her own consent, will and to the knowledge of her parents, solemnized the marriage with petitioner on March 25, 2016 according to Hindu rites and ceremonies at Arya Samaj Sewa Trust (Regd.), 106, Rajindra Market, Tis Hazari Court, Delhi. He as well as Shikha approached the learned Sessions Judge, Faridabad and moved a petition seeking police protection on March 28, 2016 and they were granted interim protection.

Prior to that respondent No.4 lodged a complaint before the Station House Officer, Police Station Saran on March 25, 2016 alleging that her minor daughter namely Shikha has been abducted by the petitioner on the basis of which FIR No. 180, dated March 25, 2016, under Sections 363, 366-A of IPC, registered at Police Station Saran, District Faridabad and alleged detenu has been taken into custody by respondents No.4 to 7 since April 08, 2016. Since Smt. Shikha-detenu who has been illegally detained by respondents No.4 to 7 is major and is legally wedded wife of the petitioner, he is entitled to get her released by way of appointment of warrant officer.

This Court has given an anxious thought to the submissions made by the learned counsel for the petitioner but find the same no legal weight. No doubt, the marriage is alleged to have been solemnized on March 25, 2016 by the petitioner with Shikha, but on the same day, FIR No. 180, dated March 25, 2016, under Sections 363, 366-A of IPC, Police Station Saran, District Faridabad has been registered on the allegations that minor Shikha has been

kidnapped by the petitioner and others. According to school leaving certificate Shikha is less than 16 years as her Date of Birth is July 13, 1997. Even if she is in the custody of respondents No.4 to 7 who are her parents, it cannot be said that she has been illegally detained by them. Moreover, investigation against the petitioner in this case is in progress.

In the given circumstances, instant petition is not legally maintainable and same is dismissed. However, if the petitioner, so desires, he can have recourse to the remedies available to him under the civil law.

May 02, 2016

Ankur

**(JASPAL SINGH)
JUDGE**