

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

Criminal Writ Petition No.781 of 2016

Date of Decision:-21.07.2016

Jan Mohammad

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

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

Present:- Mr. Mohammad Arshad, Advocate
for the petitioner.

Mr. Manish Bansal, Deputy A.G., Haryana.

Mr. Ashish Gupta, Advocate
for respondents No.4 to 9.

HARI PAL VERMA J.(Oral)

Prayer in the present petition filed under Article 226 of the Constitution of India is for issuance of writ in the nature of habeas corpus. Prayer has also been made to appoint Warrant Officer so as to produce/release the detenue namely Jaida, who is wife of the petitioner from the illegal custody of the private respondents.

It is the case of the petitioner that he is husband of the alleged

detenue namely Jaida, who is stated to be in illegal custody of the private respondents. Earlier detenue Jaida was married to respondent No.5- Jamshed in the year 1992 as per Muslim rites. However, that marriage could not succeed and, therefore, the parties sought divorce. After divorce, Jaida got married with the petitioner. From this wedlock one child was born. It is the case of the petitioner that since 27.5.2016 his wife is in illegal detention of the private respondents and they are not releasing her despite the fact that there is no dispute.

Reply by way of affidavit of Sumer Singh, HPS, Deputy Superintendent of Police, Tauru on behalf of respondents No.1 to 3 has been filed. Alongwith the reply, statement of petitioner Jan Mohammad has also been annexed. Said statement of the petitioner read as under :-

“It is stated that I am resident of the aforesaid address and am doing the job of driver. Jaida daughter of Abdul Hamid, resident of Tain was divorced by her previous husband namely Jamshed son of Kasam, resident of Maun, P.S. Ferozepur Jhirka, District Mewat before the year 2010, so I solemnized marriage with Jaida d/o Abdul Hamid, resident of Tain in according to Muslim rites and ceremonies and after in the year 2010. They started living as wife and husband on 23.5.2016. There was a petty dispute between us. Therefore, his wife has summoned her mother and relative by giving message on mobile phone and went away from the house with her mother and relatives. On 10.6.2016, he gave telephonic message to his wife to return at home and she came back to his house on 10.6.2016 alongwith her daughter Pervana. Now they are living happily as wife

and husband. I have got recorded my statement, heard, which is correct.”

On the basis of the statement made by petitioner, it can safely be concluded that his wife Jaida has gone to her parents as there was a dispute between petitioner and his wife. On 10.6.2016 when the petitioner had given telephonic message to his wife to return, she had come back to him. Thus, it is apparently clear that it was absolutely a matrimonial dispute and filing of the present petition under Article 226 of the Constitution of India seeking writ in the nature of habeas corpus is nothing but total abuse of process of law.

Accordingly, the present petition is dismissed with costs of Rs.10,000/- to be deposited by the petitioner with the Haryana State Legal Services Authority, Chandigarh, within one month from today.

The Registry is directed to place on record the receipt regarding payment of costs.

List on 26.8.2016 for compliance.

July 21, 2016
Vijay Asija

(HARI PAL VERMA)
JUDGE