

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRWP No. 265 of 2017 (O&M)

Date of Decision : 25.07.2017

Hafijulmiya

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Surinder Gandhi, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana.

Mr. K.K. Saini, Advocate
for respondents no. 4 to 6.

Surinder Gupta, J.

Heard.

This is the petition filed by the petitioner under Article 226 of Constitution of India seeking custody of his wife, namely, Appiya Biwi.

As per petitioner, he married with Appiya Biwi and six children were born from the wedlock. She has been missing since 07.02.2017 and FIR to this effect was also registered.

On notice, reply was filed by respondents no. 1 to 3, wherein it has been stated that Appiya Biwi came to the Police Station during investigation of FIR got registered by the petitioner and her statement under Section 164 Cr.P.C. was got recorded before the Judicial Magistrate, Gurugram, wherein she stated as follows:-

“Statement of Appiya Biwi w/o Sanjay Kumar, 26 years, r/o Alwar, U.P.

Q. Are you literate?

Ans. No.

Q. Who all are there in your paternal home?

Ans. My mother Rohima Bibi.

From the aforesaid question answers, I am of the considered opinion that deponent is in a fit state of mind. I specifically asked whether she is under any pressure or threat to which she denied. Let her statement be recorded.

Stated that my first husband Hafijulmiya used to beat me. As such I obtained divorce from him one year ago. Then I went with Sanjay to Alwar at my own consent and there I married him. Nobody has enticed me. I went at my own consent. Now I want to live with Sanjay. I have married Sanjay at Alwar in a temple. Then I married in the Court.”

In reply filed on behalf of respondents no. 4 to 6, it is stated that Appiya Biwi had married Sanjay of her own wish.

Learned State counsel submits that in case bearing FIR No. 37 dated 11.02.2017, police prepared the cancellation report, which will be filed before the trial Court in due course.

As Appiya Biwi has left the petitioner of her own wish and has also stated so in her statement recorded before the Judicial Magistrate Ist Class, Gurugram (Annexure P-1), I find no reason to take any further action in this petition.

Dismissed.

July 25, 2017

jk

(SURINDER GUPTA)

JUDGE

Whether speaking/Reasoned

Yes/No

Whether Reportable

Yes/No