

233.

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

CRWP-458-2017

Date of decision:09.08.2017

HARJIT KAUR AND ORS.

... Petitioners

versus

STATE OF PUNJAB AND ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Sarbjit Singh Khaira, Advocate,
for the petitioners.

Mr. Bhupender Beniwal, AAG, Punjab,
for respondents No.1 to 4.

Mr. Gourave Bhayia Malhotra, Advocate,
for Mr.S.N. Sharma, Advocate,
for respondents No.5 and 6.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Article 226 of the Constitution of India is for issuance of a writ in the nature of Habeas Corpus directing the respondents No.1 to 4 to get the detenue, namely, Thalinder Jit Singh (respondent No.5) released and to produce in court who is in the illegal custody of respondent No.6-Ravinder Kaur. Ravinder Kaur is the daughter of Thalinderjit Singh.

The petitioners have alleged that Thalinder Jit Singh-respondent No.5 has been kept in the illegal custody by his own daughter i.e. respondent No.6-Ravinder Kaur.

Considering the relationship of the parties, wherein Ravinder Kaur is the real daughter of the alleged detainee, namely, Thalinder Jit Singh, such like petition filed under Article 226 of the Constitution of India is a glaring abuse of process of law, but still in order to ascertain as to whether Thalinder Jit Singh is happily staying with his daughter-Ravinder Kaur as per his own wish or under pressure, this Court had passed a detailed order dated 27.07.2017 whereby a Local Commissioner was appointed to visit respondent No.5-Thalinder Jit Singh on 05.08.2017 and report to this Court as to whether he (Thalinder Jit Singh) is staying with his daughter-Ravinder Kaur voluntarily or under any threat or pressure. The petitioner was directed to deposit the fee of the Local Commissioner, well before the proposed date of visit of Local Commissioner.

Today when the case was taken up for hearing, learned counsel for the petitioners has stated that the petitioners have not deposited the fee of the Local Commissioner as they are unable to bear the fee.

While passing the order dated 27.07.2017, this Court was conscious of the fact that Thalinder Jit Singh, the alleged detainee is the father of respondent No.6-Ravinder Kaur and, therefore, apparently it cannot be presumed that he is in illegal custody of his own daughter, but still this Court had taken a considerate view and appointed a Local Commissioner to ascertain the wishes of Thalinder Jit Singh. Non-deposit of Local Commissioner's fee, despite there being a clear

instruction from the petitioners, shows that they have taken court proceedings for a ride. Learned counsel for the petitioner has failed to place any substantial material in its support, which may infer that Thalinder Jit Singh is in illegal custody of his daughter i.e. respondent No.6.

Therefore for misusing the process of law, a nominal cost of ₹10,000/- is imposed upon the petitioners which shall be deposited by him with the Blind School at Ludhiana and a receipt thereof shall be produced before this Court within one month from today. In case, the petitioners fail to deposit the cost and adduce receipt, the case shall be fixed for hearing on 13.09.2017.

With the aforesaid observations, present petition stands dismissed.

(HARI PAL VERMA)
JUDGE

09.08.2017
sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No