

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

CRWP-988-2017

Date of decision: 26.09.2017

Lakhvir Kaur

.... Petitioner

versus

State of Punjab & ors.

.... Respondents

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

Present: Mr. Vaneet Kumar Sharma, Advocate  
for the petitioner.

Mr. A.S.Dhaliwal, DAG, Punjab.

Mr. A.S.Rai, Advocate  
for respondents No.5 to 9.

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**Hari Pal Verma, J.(Oral)**

Prayer in this petition, filed under Article 226/227 of the Constitution of India, is for issuance of writ in the nature of Habeas Corpus for release of detinue Gurpreet Singh and Rajbir Singh, the minor sons of the petitioner from the illegal custody of respondents No.5 to 9.

Admittedly, in the matrimonial proceedings under Section 13 of Hindu Marriage Act filed by respondent No.5 – Lal Singh, the Matrimonial Court has granted divorce in his favour. The divorce decree is subject matter of challenge in FAO(M) No.46 of 2017 pending before this Court. Respondent No.5 – Lal Singh is father of the children whereas petitioner is mother.

Learned counsel for respondents No.5 to 9 states that the divorce was granted by Matrimonial Court on the ground of cruelty meted out to respondent No.5. Moreover, at this stage, neither respondent No.5 has

any plan to send his children abroad as alleged in this petition nor he has prepared any passport of his children. In support of his contentions, reply has also been filed, which is taken on record.

I have heard learned counsel for the parties.

Considering the fact that the petitioner-mother is claiming the custody of the children from the custody of respondent No.5 i.e. father of the children, it cannot be stated that the children are in the illegal custody of respondent No.5. The petitioner has remedy available in accordance with law and no such direction can be issued under Article 226/227 of the Constitution of India in the nature of habeas corpus against respondent No.5 -Lal Singh i.e. father of the children namely Gurpreet Singh and Rajbir Singh.

Accordingly, the present petition is dismissed.

**(HARI PAL VERMA)**  
**JUDGE**

26.09.2017  
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|-----------------------------------|--------|
| 1. Whether reportable?            | Yes    |
| 2. Whether speaking/Non-speaking? | Yes/No |