

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2471 OF 2018

Mrs. Sudesh Kaur Petitioner
Vs.
State of Maharashtra & Others Respondents

Mr. Vaibhav Gaikwad for the Petitioner.
Ms M.H. Mhatre, APP, for the Respondent-State.

CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATE : JULY 04, 2018

P.C:

1. This writ petition has been argued on two earlier occasions.

2. This is a petition seeking a writ of habeas corpus. On such a petition, on 20-6-2018, we passed the following order:-

“1. The petitioner/mother says that her husband and the wife of one Charan Singh are real brother and sister. On account of the fact that Charan Singh's wife - the real sister of the husband of the petitioner - was having a medical problem, they requested that the petitioner's

daughter, namely, the missing girl child be sent all the way from a village in Uttarakhand, District Haridwar, within the limits of Chakan Police Station, District Pune and Charan Singh will then ensure that she looks after his wife, the real sister of the petitioner's husband.

2. The allegations are that respondent Nos.2 and 3, residents of Uttarakhand, rather of the same village, District Haridwar have kidnapped this minor child from the custody of Charan Singh. Charan Singh's petition was disposed of by granting liberty to the petitioner, the mother of the minor, to file a petition for habeas corpus.

3. The writ petition does not enclose any document which would indicate that Charan Singh was ever residing within the limits of Chakan Police Station and all that is stated very vaguely is that Charan Singh was residing in a Gurudwara.

4. In the circumstances, we direct the Chakan Police Station to visit the Gurudwara, get in touch with those persons who are presently managing and administering the affairs of that Gurudwara and ascertain from them whether they have ever employed a person named Charan Singh and allowed him to reside in the Gurudwara along with his family. If the whereabouts of Charan Singh are not known or he is not found at the place, namely, the Gurudwara, as narrated by the petitioner, we would not hesitate to dismiss this petition but then direct the police machinery to go ahead and book all concerned, including the husband of the petitioner, the petitioner, the said Charan Singh and his wife and respondent Nos.2 and 3 and in regard to the alleged kidnapping of the minor girl child.

5. We post this matter on 4-7-2018 and to appear on the supplementary board."

3. Pursuant to that order, the petition was placed

before us today.

4. We have perused the writ petition and the annexures thereto. Ms Mhatre, appearing on behalf of the respondent-State, would submit that the petitioner has impleaded, as respondent Nos.2 and 3, two of the residents of the State of Uttarakhand. The petitioner is also a resident of the same village and District in that State.

5. The writ petition is filed in this Court on 14-6-2018 alleging that the daughter of the petitioner was brought within the limits of Chakan Police Station, Taluka Khed, District Pune by said Charan Singh. She has gone missing from that Taluka and hence this writ petition can be filed in this Court, is the perception of the petitioner.

6. However, on our pointed query, on instructions, Ms Mhatre stated that the police party/team visited the State of Uttarakhand and made inquiries with respondent No.2 and he stated that the daughter of the petitioner is not residing with him, though it is alleged that she has eloped or has been

kidnapped/abducted by him. The third respondent has been impleaded on the footing that she is known to respondent No.2 and involved in the alleged kidnapping/abduction of the minor girl.

7. We are of the firm opinion that in this petition, before this High Court, various issues crop up. It appears that the girl's father, whose name is set out in the statement of the said Charan Singh (Vinod Singh Paltoo Singh) is in the United States for the past ten years. He is stated to be the father of the minor daughter. The petitioner/mother is pursuing the petition but though the daughter of the said Vinod and the petitioner is stated to be missing, the said Vinod has not made any inquiries from December, 2017, namely, the purported month of missing till date. Secondly, the petitioner and respondent Nos.2 and 3 are all residing in the State of Uttarakhand. It is not known why the petitioner has not filed any criminal case against respondent Nos.2 and 3, though they are alleged to have taken away her daughter in the State of Uttarakhand. If no police station is assisting her, that does not mean she is remediless. She could

have filed a private complaint or she could have moved the High Court of Uttarakhand and sought a direction from the said High Court to the police to register the crime and investigate it in accordance with law. Her not filing any FIR even in this State and the State of Uttarakhand therefore, *prima facie*, raises serious doubts and grave suspicion about the version, as narrated in the petition. In the circumstances, it would not be proper for us to then direct the Chakan Police Station to record any statements. That would not assist the petitioner either. This is a second attempt by the petitioner with regard to the same kidnapping/abduction but in both petitions the full facts do not seem to be placed on record.

8. As a result of the above discussion and leaving open the remedies for the petitioner to be pursued in the State of Uttarakhand, we dismiss this petition.

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)