

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP No. 196 of 2018(O&M)

Date of Decision:18.05.2018

Vicky

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Karan Singh, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Addl.AG., Haryana.

LISA GILL, J(Oral).

CRM-W-78 of 2018.

Annexure P-5, is taken on record subject to just exceptions.

Application is disposed of.

CRWP No. 196 of 2018.

Prayer is for a direction to respondent no.4 to produce the detenue i.e.wife of the petitioner-Vicky, who is stated to be lodged at Nari Niketan against her wishes.

Brief facts necessary for the adjudication of this case are that FIR No. 0051 dated 23.05.2017, under Sections 363, 366-A IPC and Section 9 of the Children Marriage Prohibition Act, 2006, was registered against the petitioner at the instance of father of the alleged detenue.

The petitioner and the complainant's daughter filed CRM-M-27589 of 2017 seeking protection of their life and liberty from the family members of the girl. The said matter was disposed of by this Court on 31.07.2017. The petitioner and the complainant's daughter approached the

police authorities for protection in terms of order dated 31.07.2017. On investigation, date of birth of the complainant's daughter/victim was found to be 16.10.2000. Petitioner was arrested in FIR No. 0051 on 07.08.2017. Final report under Section 173 Cr.P.C., was presented. Petitioner was afforded the concession of bail pending trial by this Court on 19.01.2018 (Annexure P-4).

The complainant's daughter/victim while deposing before the learned trial Court as PW-3 on 20.12.2017 stated that she left her parental house on her own on 22.05.2017. She solemnized marriage with the petitioner at Panchkula and both of them came to Kaithal. Details of the petition filed by her and the petitioner before this Court are mentioned. She specifically stated that she did not wish to reside with her parents, maternal uncle and relatives from whom she apprehended danger to her life. She expressed the desire to live with her husband-the petitioner. Relevant part of the cross-examination of the victim reads as under:-

“I went to reside with my husband. It is correct that my life is in danger from my parents, maternal uncle and other relatives. I also made a statement before learned Magistrate under Section 164 Cr.P.C that I want to live with my husband. It is correct that I produce any adhar card to the priest at the time of marriage in which my age is shown as upto 18 years.”

The alleged detinue was produced in Court on 01.03.2018. She reiterated that she solemnized marriage with the petitioner in July 2017 against the wishes of her parents and she did not wish to live with her parents. The complainant's daughter expressed her wish to accompany the petitioner even though it was a few months till she attained majority.

Today, the alleged victim is present in Court. She affirms her stand to accompany the petitioner with whom she solemnized marriage. She

has specifically refused to go with her parents or her parental relatives. It is further stated by her that she does not wish to stay at Nari Niketan, Karnal under any circumstances.

Affidavit dated 16.05.2018 (Annexure P-5), has been filed by the petitioner specifically stating therein that he undertakes to provide all due amenities in the matrimonial home as per his capacity in order to provide a respectful life to his wife.

Petitioner-Vicky, duly identified by his counsel is present in Court. He undertakes to afford proper care and affection to his wife in the matrimonial home. He states that he is living alongwith his mother, brother and sister-in-law (Bhabi). It is stated that all of them shall afford proper care and affection to her.

Learned counsel for the petitioner relies upon a judgment of this Court in **Court on its own motion Vs. State of Punjab 2015(2) R.C.R. (Criminal) 792** and submits that in case the detenue does not wish to reside at the Nari Niketan, it is illegal to detain her against her wishes. Furthermore marriage between the petitioner and the detenue is not illegal and void. The alleged detenue has specifically expressed her wish to reside with the petitioner with whom she has solemnized marriage. She stated that she did not wish to be lodged at the Nari Niketan under any circumstances.

Keeping in view the facts and circumstances of the case and the specific undertaking given by the petitioner, but without opining upon the genuineness or otherwise of the marriage solemnized between the parties, it is considered just and expedient to permit the alleged detenue i.e. the victim in FIR No. 0051 dated 23.05.2017, to accompany the petitioner. She is at liberty to accompany the petitioner from the Court premises today itself.

It is clarified that none of the observations in this order shall

have any bearing on the trial pending in FIR No. 0051 dated 23.05.2017.

Petition is accordingly disposed of.

18.05.2018

s.khan

[LISA GILL]

Judge

Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No