

CRWP-248-2019

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

CRWP-248-2019

Date of Decision: 22.04.2019

Rohit Kumar Sharma

... Petitioner

Versus

Union Territory, Chandigarh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Parveen Chauhan, Advocate,
for the petitioner.

Mr. Rajeev Anand, Addl. P.P. U.T. Chandigarh.

Mr. Sarbjit Singh Khaira, Advocate,
for respondents No.4 to 6.

INDERJIT SINGH, J.

Present criminal writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *habeas corpus* to recover detenu-Krishna Sharma from the illegal custody of respondents No.4 to 6.

Notice of motion was issued. Learned Addl..P.P. for U.T. Chandigarh, has appeared and filed affidavit of Inspector Poonam Dilawari, presently posted as SHO, Police Station Sector 26, U.T. Chandigarh. The same is taken on record.

Learned counsel for respondents No.4 to 6 has also appeared

and filed the reply, which is also taken on record.

CRWP-248-2019

I have heard learned counsel for the parties as well as learned Addl..P.P. for U.T. Chandigarh and gone through the record.

Learned counsel for the petitioner argued that child-detenu was handed over to his mother i.e. respondent No.4-Archana Sharma, by the present petitioner as she asked for handing over his custody so that a compromise can be effected between the parties. Learned counsel for the petitioner argued that now, respondent No.4 is not allowing the petitioner to meet the child.

However, learned counsel for the petitioner has not argued that minor, namely, Krishna Sharma (detenu), who is about 03-year-old, was either snatched or taken away forcibly by the private respondents, rather the petitioner himself handed over the custody of minor as per his own will.

From the record and after hearing the arguments, I find that first of all, the minor, who is about 03 year-old, is in the custody of his mother. In no way, custody of a minor child with his/her mother can be held as illegal. Furthermore, as already discussed, the minor child has not been snatched or taken away forcibly by respondent No.4-mother of detenu, rather his custody was handed over by the present petitioner to her. Nothing has been argued that any settlement has taken place and respondent No.4 has violated any terms and conditions of the settlement. Otherwise also, custody of a minor child, who is aged about 03-year, with his/her mother cannot be held as illegal and it is generally to be with the mother. If the petitioner has any grievance and he wants to take back the custody of minor child which he himself handed over voluntarily to respondent No.4, then he

CRWP-248-2019

can approach the Guardian Judge.

Therefore, in the facts and circumstances of the present case,
the present criminal writ petition does not require any further action.

Disposed of accordingly.

22.04.2019
parveen kumar

(INDERJIT SINGH)
JUDGE

Note:	Whether speaking/reasoned	:	Yes
	Whether reportable	:	No