

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

264

CRWP-488 of 2019

Decided on : 15.10.2019

Baljit Saini

... Petitioner

Versus

The State of Punjab and others

.. Respondents

CORAM : HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present : Mr.Vikas Kapoor, Advocate
for the petitioner.
Mr.Ramandeep Sandhu, Sr.DAG, Punjab.
Mr.Pradeep Sharma, Advocate
for respondents No. 5, 6 and 7.

Harinder Singh Sidhu, J.

This petition has been filed for issuance of writ in the nature of Habeas Corpus for the release of detenue Avleen Kaur aged about 3 years alleged to be detained in the illegal custody of respondent Nos.5 and 6.

The petitioner claims that he is Non Resident Indian. He had gone to Italy to earn his livelihood. He got married with respondent No.7 Gurmeet Kaur on 09.10.2011. On 16.03.2014, a male child Prabhjot was born to them. In 2016, respondent No.7 came to India alone. She gave birth to a female child namely Avleen Kaur on 05.09.2016.

It is the case of the petitioner that at the time of birth of Avleen Kaur, respondent No.7 Gurmeet Kaur fraudulently impersonated herself to be Manpreet Kaur respondent No.5. In the record of Baweja Nursing Home, Rup Nagar, brother of the petitioner, Surjeet Singh respondent No.6 was shown as father of the child and Manpreet Kaur as her mother. It is only when petitioner came back to India in 2018 that he got to know about the aforesaid fact. He got registered a case FIR No.78

dated 21.04.2018 under Sections 419, 120-0B IPC at Police Station City Rup Nagar against respondents No.5 to 7. The case is pending trial before the Ilqa Magistrate. He further states that respondent No.7 has filed a petition for quashing of the FIR in which she admitted that she had abandoned the child.

It is alleged that child is in the illegal custody of respondents No.5 and 6 who are her Mama and Mami and they have no right to her custody.

On 12.09.2018, this Court had directed that the child Avleen Kaur be produced in Court for today. Avleen Kaur is present in Court along with respondent No.7. Respondent No.7 stated that the child is living with her and they are presently staying in the parental house of respondent No.7 where respondents No.5 and 6 are also living.

On the asking of the Court, Ms.Monika Jalota, DAG, Punjab has interacted with the child Avleen Kaur. The child recognized respondent No.7 as her mother. She appeared to be comfortable in her presence.

In these circumstances, it cannot be said that the child is in illegal custody. In any event, the petitioner has already resorted to appropriate proceedings under the *Guardian and Wards Act 1980* for custody of the child.

This petition is disposed of.

15.10.2019

sd

Whether speaking/reasoned

Whether Reportable

[HARINDER SINGH SIDHU]

JUDGE

: Yes/No

: Yes/No