

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

CRWP No.1511 of 2017 (O&M)

Date of Decision: April 29, 2019

Davinder Kaur

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.H.S.Batth, Advocate
for the petitioner.

Ms.Monika Jalota, DAG, Punjab
for the respondent-State.

Mr.Amit Wadhwa, Advocate for
Mr.Vaibhav Narang, Advocate
for respondent No.4.

INDERJIT SINGH, J.

The petitioner has filed this criminal writ petition against State of Punjab and other respondents under Article 226/227 of the Constitution of India in the nature of Habeas Corpus for immediate handing over custody of Prabhseerat Kaur aged about 4 years 11 months, daughter of the petitioner, from the illegal confinement of respondent No.4, who has illegally and forcibly snatched the minor from her lawful custody from the parental home of the petitioner without any legal right and consent of the petitioner.

Notice of motion was issued. Learned State counsel as well as

learned counsel for respondent No.4 appeared and contested the petition.

Reply was also filed on behalf of respondent No.4, in which it is stated that alleged detainee is minor daughter of respondent No.4 and petitioner. The custody of child with the father cannot be termed as illegal detention. It is also stated that if at all the petitioner wants the custody of the child, then she has to file appropriate petition under the Guardians and Wards Act. It is further submitted that during the pendency of the petition, the matter has been compromised before the police and the petitioner has categorically agreed that minor would remain with the father, therefore, in view of the admission of the petitioner herself, the custody of the child with father cannot be termed as illegal detention and copy of the compromise has been placed on record as Annexure R4/1.

After hearing learned counsel for the parties as well as learned State counsel, I find that respondent No.4 has placed on record copy of the compromise Annexure R4/1, in which the petitioner agreed for the custody of father over the minor child. As per the compromise, minor Prabhseerat kaur aged about 4 ½ years will stay with her father and her upbringing will be taken care by her father.

Learned counsel for the petitioner prayed that some visiting rights should be given to the petitioner to meet the minor. From the record, I find that this is a habeas corpus petition. The petitioner herself has agreed the custody of the minor with the father and the compromise has not been challenged. Otherwise also, the custody of the minor daughter with father, cannot be held as illegal. If the petitioner wants visiting rights etc., then appropriate remedy for the petitioner is to file petition before Guardian

Judge. The present petition for this purpose is not maintainable.

Therefore, finding no merit in the present petition, the same is dismissed.

However, the petitioner is at liberty to avail appropriate remedy before Guardian Judge, if so advised.

April 29, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No