

CRWP-3147-2020

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

CRWP-3147-2020 (O & M)

Date of decision: 03.12.2020

Jaswinder Singh

...Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Rakesh Kumar Sharma, Advocate,
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Gautam Kaile, Advocate,
for respondents No.4 to 6.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

The present criminal writ petition has been filed under Article 226 of the Constitution for issuance of a writ in the nature of *habeas corpus* for release of detenues, respondents No.7 and 8, from the custody of respondent No.6, and to hand over their custody to the petitioner, being their father and natural guardian.

Learned counsel for the petitioner contends that respondent No.6, wife of the petitioner has some relations with respondent No.5 and is residing with him alongwith respondents No.7 and 8, who are not being treated properly. As per the information of the petitioner, respondents No.7 and 8 are even not attending the school. Respondent No.6 alongwith respondents No.7 and 8 went to her father and had to return back on

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12.06.2019 to join the company of the petitioner. But she did not reach her matrimonial home and thereafter, her father i.e. respondent No.4 lodged an FIR regarding their (respondent No.6 and children) missing, and ultimately they were recovered from Dehradun, itself. Thereafter, she had again eloped with respondent No.5 and the FIR was also got registered.

Learned counsel for respondents No.4 and 6 submits that respondents No.7 and 8 are being looked after very well by respondent No.6. Even otherwise, the petitioner can approach the court under the Guardians and Wards Act for the appropriate remedy. Moreover, respondent No.6-wife has already filed a divorce petition under Section 13 of the Hindu Marriage Act before the competent court at Kurukshetra.

I have heard the learned counsel for the parties.

It seems to be a matrimonial dispute between the petitioner-husband and respondent No.6-wife. Through this petition, a prayer has been made for handing over the custody of minor-children to the petitioner-husband who are in custody of respondent No.6-wife. For such a prayer, the petitioner-husband has a remedy to approach the competent court under the Guardians and Wards Act for the custody of the minors.

The sole issue is regarding the custody of the children, who are stated to be residing with their mother-respondent No.6. There appears to be no circumstance on record to conclude that the children are in the illegal custody of the mother and/or are being treated improperly. The petitioner being the father of the children has a remedy under the Guardians and Wards Act, to claim the custody of the children.

In view of the above, no ground for interference is made out in

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the present petition.

Dismissed.

However, it is made clear that the petitioner, if so advised, shall be at liberty to initiate appropriate proceedings before the Court of competent jurisdiction at Kurukshetra regarding the custody of the children. It is further made clear that if any such proceedings are initiated by the petitioner, the same shall be entertained in accordance with law.

03.12.2020

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No