

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

232

CRWP-5447-2020

Date of decision: 06.08.2020

Deep Chand

.....Petitioner

Versus

State of Haryana & others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Ram Kumar Saini, Advocate
for the petitioner.

Mr. Anant Kataria, DAG, Haryana
for respondents No.1 to 3.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has filed the present petition under Article 226 of the Constitution of India for issuance of a writ in the nature of habeas corpus for appointment of warrant officer for release of detainee-minor daughter of the petitioner namely Komal, aged 16 years from illegal confinement of respondents No.4 to 7.

Vide order dated 29.07.2020 respondent No.2-Superintendent of Police, Ambala was directed to look into the matter personally, take appropriate action in accordance with law for release of detainee-Komal daughter of the petitioner in case of her illegal detention by respondents No.4 to 7 or any other person,

ensure her presence through video conferencing and submit an action taken report to this Court on the date of hearing fixed.

Mr. Satnam Singh Sisodia, Advocate has appeared on behalf of respondents No.5 to 7 and undertakes to file his power of attorney in the registry.

In compliance with order dated 29.07.2020, status report by way of affidavit of Abhishek Jorwal, IPS, Superintendent of Police, Ambala has been filed on behalf of respondents No.1 to 3 through e-mail print out of which is taken on record.

In the report, it has been mentioned that on 04.08.2020, the investigating officer of the case reached the house of respondents No.4 to 7 and on information given by respondent No.5 recovered the detainee from the custody of respondent No.4 from house of his relative in Village Dhakola, Police Station Saha. Detainee-Komal was produced before the learned Illaqa Magistrate, Naraingarh and her statement under Section 164 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") was got recorded. In her statement, under Section 164 of the Cr.P.C., detainee-Komal stated that she had solemnized marriage with respondent No.4-Shanky with her own free will and she is residing with respondent No.4-Shanky at the house of his sister. Due to detainee being minor, she was produced before Chairperson, Child Welfare Committee, Ambala for counseling and the detainee refused to go with her parents on which her custody was handed over to Incharge, Home Shelter, Ambala. Respondent No.4 was arrested in case FIR No.140 dated 30.06.2020 registered under Sections 363 and 366-A of the Indian Penal Code, 1860 (for short, "IPC") at Police Station

Shehzadpur.

Learned counsel for respondents No.5 to 7 has stated that detainee was not in custody of respondents No.5 to 7. The detainee had solemnized marriage with respondent No.4 and was with respondent No.4. The detainee was not in illegal custody of respondents No.5 to 7.

Learned counsel for the petitioner has submitted that protection petition bearing CRWP No.4544 of 2020 filed by detainee-Komal and respondent No.4-Shanky was dismissed as withdrawn by Coordinate Bench of this Court vide order dated 21.07.2020.

In view of statement of detainee-Komal that she had solemnized marriage with respondent No.4-Shanky and the fact that she was recovered from custody of respondent No.4 from the house of his relative, respondents No.5 to 7 cannot be, prima facie, said to have kept detainee-Komal in illegal custody.

However, it shall be for the petitioner and private respondents to avail appropriate remedies by way of appropriate proceedings in accordance with law.

As per the directions given by respondent No.2, the investigating officer has produced the detainee before this Court by way of video conferencing. On being asked, detainee-Komal has stated that she wants to go with her father out of her own free will. The detainee is allowed to go with her father.

In view of the facts and circumstances of the case, no further action is required to be taken on the present habeas corpus petition which has become infructuous.

Accordingly, the petition is disposed of as having become infructuous with liberty to the petitioner and private respondents to avail appropriate remedies by way of appropriate proceedings in accordance with law.

06.08.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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