

CRWP-6745-2020

Date of decision: 21.09.2020

PARAMJEET KAUR

.....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Mikhail Kad, Advocate
for the petitioner.

Mr. Sidakmeet Sandhu, Asstt. A.G. Punjab
for respondents No. 1 to 4

Mr. Lakhwinder Singh Sidhu, Advocate
for respondent No. 5

ARUN KUMAR TYAGI, J. (ORAL)

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

The petitioner has filed the present writ petition under Article 226 of the Constitution of India for issuance of a writ in the nature of habeas corpus directing respondents No. 2 to 4 to get the detenue-Navjot Kaur released from illegal custody of respondents No. 5 to 10.

Briefly stated, the petition has been filed on the averments that daughter of the petitioner namely Kulwinder Kaur was married with respondent No. 5 – Jarnail Singh and due to maltreatment by respondent No. 5, her daughter Kulwinder Kaur and grand daughter Navjot Kaur shifted and started living with her. The daughter of the petitioner filed case under Section 125 of the Code of Criminal Procedure, 1973 against respondent No. 5. On 27.08.2020, respondents

No. 5 to 10 forcibly took her daughter Kulwinder Kaur and grand daughter Navjot Kaur with them. The petitioner submitted an application to Deputy Superintendent of Police, Moonak but no action has been taken on the same.

Vide order dated 03.09.2020, while issuing notice of motion, respondent No. 2-Senior Superintendent of Police, Sangrur was directed to look into the matter personally and to take appropriate steps for release of detainee-Navjot Kaur if the detainee does not want to live with respondent No. 5 and to allow her to go to the place of her choice. Respondent No. 2 was also directed to ensure the presence of detainee Navjot Kaur before this Court through video conferencing on the date fixed.

In compliance with above said order respondent No. 2 ensured the presence of detainee Navjot Kaur before this court through video conferencing on 15.09.2020. On being asked detainee Navjot Kaur stated that she wanted to live with her maternal grand mother.

Learned Counsel for respondent No. 5 submitted that number of cases regarding immoral activities were pending against the petitioner and objected to detainee Navjot Kaur living with the petitioner.

Vide order dated 15.09.2020, respondent No. 5 and his wife were allowed to meet detainee Navjot Kaur in the Chamber of Mr. Vikas Elisha, Advocate, District Courts, Sangrur. Respondent No. 5 and his wife had accordingly met detainee Navjot Kaur and learned Counsel for respondent No. 5 has submitted that detainee Navjot Kaur wants to live with her maternal grandmother and has not agreed to live

with her parents.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for respondent No. 5 and gone through the relevant record.

In Soni Gerry Vs. Gerry Douglas reported at (2018) 2 SCC 197, where the daughter, who was major, expressed a desire to reside with her father in Kuwait, where she was pursuing her education on which habeas corpus petition filed by her mother was dismissed by Hon'ble Supreme Court. In that case Hon'ble Supreme Court made the following observations in para No. 9 and 10 of its judgment :-

“9..... She has, without any hesitation, clearly stated that she intends to go back to Kuwait to pursue her career. In such a situation, we are of the considered opinion that as a major, she is entitled to exercise her choice and freedom and the Court cannot get into the aspect whether she has been forced by the father or not. There may be ample reasons on her behalf to go back to her father in Kuwait, but we are not concerned with her reasons. What she has stated before the Court, that alone matters and that is the heart of the reasoning for this Court, which keeps all controversies at bay.

10. It needs no special emphasis to state that attaining the age of majority in an individual's life has its own significance. She/He is entitled to make her/his choice. The Courts cannot, as long as the choice remains, assume the role of *parens patriae*. The daughter is entitled to enjoy her freedom as the law permits and the court should not assume the role of a super guardian being moved by any kind of sentiment of the mother or the egotism of the father. We say so without any reservation.”

In the present case, detenue Navjot Kaur being major is entitled to live as per her own free will with her maternal grandmother and this Court cannot interfere in this right of the petitioner to live with the maternal grandmother on any consideration of sentiments of her parents by assuming the role of superguardian and exercise of

jurisdiction as *parens patriae*.

Since, detainee Navjot Kaur is now living with her maternal grandmother out of her own free will, no further proceedings are required to be taken in the present habeas corpus petition which is disposed of accordingly as having become infructuous.

21.09.2020

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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