

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

CRWP-10489 of 2020

Date of Decision: 21.12.2020

Karamjit Kaur and Anr.

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Rishu Mahajan, Advocate for the petitioners.

Mr. M.S. Nagra, AAG, Punjab.

HARINDER SINGH SIDHU, J

Vide order dated 16.12.2020, following order was passed by
this Court:

“ The present petition has been filed under Article 226 of the Constitution seeking direction to respondent Nos.2 & 3 to provide protection to the lives and liberty of the petitioners at the hands of private respondent Nos.6 to 15.

It is stated that petitioner No.1 married petitioner No.2 against the wishes of parents and relatives of petitioner No.1. Petitioner No. 1 was minor aged about 16 years and 11 months old at the time of marriage. After the marriage, mother of petitioner No.1 got FIR No.26 dated 10.2.2020 registered against petitioner No.2 for the offences under Sections 363,366,376,34 IPC and Section 4 of POCSO Act, 2012. Petitioner No.2 was arrested in the said FIR. Vide order dated 14.10.2020 in CRM-M-21200 of 2020, petitioner No.2 was directed to be released on bail after taking into account his custody period i.e more than eight months. During the period, petitioner No.2 was in jail, petitioner No.1 stayed with her parents. It is stated that after the release of petitioner

No.2, petitioner No.1 has re-joined his company.

It is alleged in this petition that on 15.11.2020 while petitioner No.2 and his family members had gone out for certain work, respondent Nos.6 to 15 illegally entered their house and forcibly took petitioner No.1 away and beat her. On 25.11.2020 the said private respondents are alleged to have again beaten petitioner No.1.

Learned counsel for the petitioners submits that although the petitioners are now living together happily but they apprehend danger to their lives at the hands of private respondents. In this regard they have submitted a representation dated 07.12.2020 (P.4) to respondent No. 2.

Taking into account the fact that petitioner No.1 is a minor, learned State counsel for Punjab and Haryana were requested to interact with her through mobile phone. Both of them after having discussed with her in detail, have informed that petitioner No.1 is not willing to go to her parents. She has stated that she had married petitioner No.2 out of her own free will and is staying with him of her own.

As petitioner No. 1 is a minor and she has stated that she does not want to go to her parents and petitioner No.2 is facing trial in the aforesaid case, ordinarily the only recourse would have been to send her to a Protection Home till she attains the age of majority. But that option is not being considered feasible in view of the Covid-19 pandemic.

The only another option appears to be available is to hold the parents of petitioner No. 2 responsible for her welfare and interest. At this stage, learned counsel for the petitioners prays for some time to file an affidavit of parents of petitioner No.2 assuring and undertaking that they would be responsible for the welfare of petitioner

No.1 if she stays with them.

Adjourned to 21.12.2020.

Meanwhile, respondent No.2 is directed to look into the representation Annexure P-4 filed by the petitioners and take appropriate action, in accordance with law.”

In compliance of said order, affidavits have been sent on e-mail.

Examining the facts in hand and taking into account the prevailing Covid-19 pandemic, this Court does not deem it appropriate to direct that Karamjit Kaur's custody should be forcibly entrusted to her parents against her wishes or that she should be kept in a Protection Home till she attains the age of 18 years. It would suffice at this stage if Karamjit Kaur is allowed to go with parents of petitioner No.2, and remain with them till she attains the age of 18 years. Parents of petitioner No.2 shall be bound by the affidavit filed by them before this Court and take care of Karamjit Kaur to the best of her capacity and ability. However, as parents of petitioner No.2 are not her legal guardian and they are being entrusted Karamjit Kaur's custody only as per the desire and wish expressed by Karamjit Kaur herself, it would be appropriate that the Child Welfare Committee, Jalandhar, monitors Karamjit Kaur's well-being till she attains the age of 18 years while she remains in custody of parents of petitioner No.2. The Chairperson of the Child Welfare Committee, Jalandhar, is accordingly directed to depute a Child Welfare Officer to randomly visit residence of parents of petitioner No.2, twice a month to ensure that Karamjeet Kaur is being well cared for and to ascertain whether she has any complaints. The Child Welfare Committee, Jalandhar, shall take on record the reports of such Child Welfare Officer and monitor the case till Karamjit

Kaur attains the age of 18 years.

The Superintendent of Police, Jalandhda shall however remain mindful of the representation made by the petitioners on 07.12.2020 and the order passed by this Court on 16.12.2020 in this writ petition.

The writ petition is disposed of with the above directions.

A copy of this order shall be forwarded to the Chairperson, Child Welfare Committee, Jalandhar for necessary further action, as indicated hereinabove.

December 21, 2020
manoj

(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No