

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

CRWP-881-2019(O&M)
Date of decision:-2.3.2020

Amit Gulrajani

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Gaurav Singla, Advocate
for the petitioner.

Ms.Dimple Jain, AAG, Haryana.

Mr.Kunal Dawar, Advocate
for respondent No.3.

H.S. MADAAN, J.

Petitioner - Amit Gulrajani, aged about 42 years, resident of Singapore, having address of India also, has filed this criminal writ petition under Article 226 of the Constitution of India for issuance of a writ in the nature of habeas corpus seeking release of his minor daughter – Henna Gulrajani from the custody of his wife Smt.Aditi Subbiah – respondent No.3, residing at Gurugram stating that she is being illegally detained in defiance to custody orders passed by Family Court at Singapore; further craving for issuance of direction to respondents i.e.

State of Haryana through Home Secretary to Government of Haryana, Civil Secretariat, Chandigarh, Commissioner of Police, Gurugram, Smt. Aditi Subbiah, SHO, Police Station Sector – 29, DLF, Gurugram to produce the child before this Court for handing over her custody to the petitioner.

Notice of the petition was given to respondent No.3, who put in appearance opposing the request that proceedings under Protection of Women from Domestic Violence Act, 2005 as well as Guardians and Wards Act, 1890 are pending and petitioner can move appropriate application in those Courts for redressal of his grievance and the writ petition at his instance is not maintainable.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has referred to **Lahari Sakhamuri Versus Sobhan Kodali, 2019 SCC OnLine SC 395** and **Yashita Sahu Versus State of Rajasthan and Others, 2020 SCC OnLine SC 50** in support of his contentions that the writ petition at the instance of the petitioner is maintainable and necessary relief may be granted to him in these proceedings.

Whereas learned counsel for respondent No.3 is opposing the request.

After hearing learned counsel for the parties and going through the authorities, I find that keeping in view the facts and circumstances, it would be proper and appropriate if the petitioner approaches the Court of competent jurisdiction under Guardians and

Wards Act or under any other relevant provision of law for seeking custody of the minor child. In those proceedings, he can pray for grant of temporary custody. Though he is relying upon order passed by Court at Singapore but then it has to be seen as to whether such order has been passed by the Court of competent jurisdiction and to what extent the direction issued by such Court is applicable in light of the laws on the subject applicable to the parties in this country. Some litigation between the parties is stated to be going on. The petitioner may move appropriate application in the said litigation or file a separate petition/suit. Therefore, it is not found proper and appropriate under the circumstances to get custody of the minor girl aged about eight years from her mother and hand it over to her father. The child is in custody of her mother, who is her natural guardian and it cannot be said that she is being illegally detained or confined by mother of the child or that her residing with the mother is detrimental to her interest.

The petition is doomed for failure and is dismissed accordingly.

2.3.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No