

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

CRWP-1890-2021 (O&M)
Date of decision: 23.04.2021

Ram Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Present: Mr. Krishan Singh, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

Mr. Sunil Tandon, Advocate for respondents No.5 to 7.

H.S. MADAAN, J.

Case taken up through video conferencing.

Petitioner Ram Kumar has filed the instant petition under Article 226/227 of the Constitution of India read with Section 482 Cr.P.C., for issuance of writ in the nature of habeas corpus seeking direction to official respondents No.2 to 4 to get daughter of petitioner, namely, Radha released from illegal custody of Abhishek Kumar and Harbans Lal, impleaded as respondents No.5 and 6 respectively.

When this petition came up for hearing, counsel for the petitioner contended that daughter of petitioner namely Radha had been enticed away by respondent No.5-Abhishek Kumar by giving allurements of marriage and in that regard FIR No.16 dated 26.01.2021, for offences under Sections 363 and 366 IPC has been got registered with Police

Station Farakpur against respondent No.5-Abhishek Kumar. While issuing notice of motion, an order was passed, the operative part of which is as follows:-

“After hearing counsel for the petitioner and going through the record, I find that since the FIR has already been got registered by the petitioner alleging kidnapping of his daughter Radha by accused Abhishek Kumar, the police from Police Station Farakpur can conduct raid at residential premises of such accused or any other place pointed out by the petitioner or where Radha can be expected to be there, so as to get Radha recovered and then after knowing her wishes, she can either be sent to Nari Niketan at the nearest place available or her custody be handed over to her parents. The Illaqa Magistrate/Duty Magistrate at Yamuna Nagar may pass appropriate order in the matter in accordance with law after knowing the wishes of girl in question Radha. The Superintendent of Police, Yamuna Nagar is directed to ensure that necessary raid is conducted at residential house of Abhishek Kumar or any place pointed out by the petitioner, so as to get Radha recovered from his possession and then to produce her before Illaqa Magistrate/Duty Magistrate at Yamuna Nagar. The needful be done at the earliest possible and then report be sent to this Court, by the next date of hearing, fixed as 12.03.2021.”

As per reply submitted by official respondents on 08.03.2021, Abhishek Kumar and Radha had gone to office of Superintendent of Police, Yamuna Nagar and gave an application for providing protection from petitioner and others; such protection was

granted to them and they were sent to Safe House, Jagadhri. Radha was produced before Area Magistrate for the purpose of getting her statement recorded; on 19.02.2021, she did make a statement where she stated that she has solemnized marriage with Abhishek Kumar as per her wish and she wanted to resident with him; on 23.02.2021, Abhishek Kumar and Radha gave to the police in writing that they did not want to live in Safe House and they did not need police protection, therefore, on 23.02.2021, Abhishek Kumar and Radha were released from Safe House and they went to Village Jaroda, Tehsil Jagadhri, District Yamuna Nagar in house of Abhishek Kumar; that a cancellation report has been prepared in said FIR No.16 dated 26.01.2021, which has been submitted to higher police officer for necessary approval; that on 01.03.2021, when police party went to house of respondents No.4 to 7, Radha was found present there; she got her statement recorded that she had solemnized marriage with Abhishek Kumar as per her wishes and she was residing with private respondents of her own; she was produced before Judicial Magistrate 1st Class, Yamuna Nagar for getting her statement recorded under Section 164 Cr.P.C., in which she reiterated her earlier version; however, JMIC, Yamuna Nagar, directed the police to take Radha to Nari Niketan, Karnal till further orders; as such, she has been lodged in Nari Niketan, Karnal on 01.03.2021.

Learned counsel for the petitioner has submitted that an order be passed by this Court giving custody of Radha to petitioner Ram Kumar, who is her father and she should not be allowed to reside with Abhishek Kumar against whom a criminal case has been registered for

kidnapping of Radha and alleged marriage between Radha and Abhishek Kumar is not valid, since Abhishek Kumar was aged less than 21 years at the time of alleged marriage.

However, learned counsel appearing for private respondents has submitted that Abhishek Kumar has got age of majority and Radha should be allowed to reside with him. In support of his contentions, he has referred to judgments i.e. **Jitender Kumar Sharma Vs. State & Anr in WP (Crl) 1003/2010 by Delhi High Court and Himani Vs. State of Uttar Pradesh & Ors. in SLP(Crl.) 5390/2019 and Bhim Sain Vs. State of Punjab & Ors. in LPA No.2146-2016 decided on 27.10.2016.**

After hearing the rival contentions and going through the judgments referred to by learned counsel for the private respondents, I find that the order for sending Radha to Nari Niketan, Karnal has been passed by JMIC, Yamuna Nagar and a criminal case bearing FIR No.16 dated 26.01.2021 is said to have been registered against Abhishek Kumar -respondent No.5. It would be proper and appropriate if learned JMIC, Yamuna Nagar is directed to decide the question as to whether Radha is to be released from Nari Niketan, Karnal, allowing her to go wherever she feels like she being a major or allowing her to go with her parents if she so wishes or with Abhishek Kumar, keeping in view her said option, if so permissible under law.

It is ordered accordingly. With such observations, the present petition stands disposed of.

23.04.2021

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(H.S. MADAAN)
JUDGE

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