

CRWP No. 1576 of 2020 (O&M)

Date of Decision: 17.02.2021

Baggo

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Jagdish Singh Mahal, Advocate, for the petitioner.
Mr. Sukhbeer Singh, A.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

By this petition, the petitioner seeks issuance of a writ in the nature of 'Habeas Corpus' for release of her daughter (alleged detainee), namely, Nawabi @ Dabbi, who has been kept in illegal custody by respondents no. 5 to 10 herein (as alleged).

On 27.01.2021, the following order had been passed by this court:-

*“Case heard by video conferencing.**Pursuant to the order of this court dated 19.01.2021, Sh. Sucha Singh, DSP, Sub-Division, Tarn Taran, is present in court via video conference, with a lady carrying a child also seen to be present with him, who has stated upon query that her name is Nawabi.**Learned State counsel submits on instructions that in fact she has even got recorded a statement under the provisions of Section 164 of the Cr.P.C, to the effect that she has married respondent no.5 (Meen Gujjar) and that from the said marriage a child about 3 months old has also been born, with her now living with her husband in District Hoshiarpur.**Though learned State counsel submits that a reply dated 25.01.2021 has been received in the office of the Advocate General, due to paucity of time it could not be filed in the Registry. He also submits that as per the*

girl, her age is 21 years, though as per Mr. Mahal, she is about 14 years old.

There is stated to be no record of the birth of the alleged detenue, with Mr. Mahal also not knowing the place where she was born, to enable this court to try and trace out the birth record.

Be that as it may, once it is stated that she has been married to respondent no.5 and there is also stated to be a child from the said marriage and the girl has been produced (by video conferencing), actually there would be no reason for this court to continue with this petition, but simply to enable the reply of the DSP to come on record, annexing therewith the statement of the girl made before the Magistrate under Section 164 of the Cr.P.C., adjourned to 17.02.2021, with the said reply to be filed at least 5 days before the next date of hearing.

In the meanwhile, learned counsel for the petitioner would address arguments as to why, in the aforesaid circumstances, this petition should continue any further.

As regards the petitioner allegedly having been beaten by respondents no.5 to 10 on 19.08.2020, that would be a separate cause of action altogether, and a petition seeking issuance of a writ of habeas corpus to produce a particular person would not be a remedy to pursue that allegation, after the alleged detenue has been produced in court.

The aforesaid girl, Nawabi, shall again be produced by video conference by the DSP, with the petitioner also directed to be present in the office of the DSP on that day, (though of course all of them shall maintain all precautions as are necessary during the time of Covid-19 pandemic, including wearing of masks etc. till the time that this court has put a query to them by way of video conference).

As regards the delay, the DSP shall also explain in his affidavit the reason for the delay in producing the girl, with this petition having been filed in January 2020.”

Today, though there is some connectivity issue with the office of the DSP, (though the DSP himself is visible, he has not being heard here); however, Mr. Mahal, learned counsel for the petitioner, as also learned State counsel, have taken instructions (Mr. Mahal from the petitioner) that the petitioner has in fact met her daughter in the office of the DSP.

Thus, the identity of the girl who had appeared before this court via video conference on 27.01.2021 stands established as the daughter of the petitioner.

Learned State counsel submits that as per his instructions from the DSP, the daughter of the petitioner has expressed her desire to go back to her husband and not with her mother, i.e. the petitioner.

Mr. Mahal, learned counsel for the petitioner, submits that since the detinue has been produced before the mother, he does not press this petition, which has been rendered infructuous.

Disposed of as such.

He has however submitted that the mother would be taking other remedies available to her as per law.

Obviously, no comment is made on that, with any such petition/suit filed to be considered wholly on its own merits.

February 17, 2021

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Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)

JUDGE

Yes
No.