

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

**Criminal Writ Petition No.1947 of 2020(O&M)
Date of Decision: December 02, 2021**

Ramandeep Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Vikas Gupta, Advocate
for the petitioner.

Mr.Amitoj Dhaliwal, DAG, Punjab.

Mr.J.P.Devgan, Advocate
for respondent No.4.

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HARINDER SINGH SIDHU, J.

Ramandeep Kaur - petitioner has filed this petition under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus for the release of Harmanjeet Singh and Arshdeep Kaur, who are allegedly in illegal and wrongful detention of respondent No.4.

Respondent No.4 – Jagdeep Singh is the husband of the petitioner.

It is the case of the petitioner that the marriage of the petitioner with respondent No.4 was solemnized on 08.02.2012 as per Sikh rites and rituals. Two children, namely Arshdeep Kaur and Harmanjeet Singh were born to them on 23.06.2013 and 15.05.2016 respectively. The petitioner was maltreated by respondent No. 4 and his family members on account of

dowry and ultimately turned out of the matrimonial home. The children were retained by respondent No. 4. The children who at the time of filing of the petition were 3 ½ years and 6 ½ years old have been deprived of the care and affection of their mother which is not in their best interest. Hence, this petition.

No reply has been filed on behalf of respondent No. 4. In the reply affidavit of Rajbir Singh, PPS, Deputy Superintendent of Police, Sub-Division Valtola, District Tarn Taran on behalf of respondents No.1 to 3 it has been stated that petitioner had filed complaint dated 08.10.2019 to respondent No.2 – SSP, Tarn Taran against her husband and other in-laws, alleging that from the very inception of the marriage the in-laws family members started to tease and taunt her for bringing insufficient dowry and she was forced to bring a new car and ultimately, she was turned out of her matrimonial home after snatching her minor children. The said complaint was marked to Incharge, Women Cell, Tarn Taran. An inquiry was conducted by SI Narinder Kaur, SHO, Police Station Women, Tarn Taran. It was found that the relations between the petitioner and her husband – respondent No.4 were strained and they had been quarrelling with each other on petty matters. On 16.06.2019, the couple had gone to village Dhollan to attend the Shagun/thaka ceremony of Satwinder Singh, cousin of the petitioner. While there, Sukhchain Singh brother of the petitioner and respondent No.4 Jagdeep Singh had a scuffle on the stage. During that episode, turban of respondent No.4 was removed. Feeling insulted, respondent No.4 along with his wife (petitioner) and children immediately left the function. But the petitioner had returned back from her matrimonial

home to her parental house by bus. Both the children remained with respondent No.4. During inquiry, the allegations made in the complaint regarding demand of dowry were found to be baseless. It was also found that respondent No.4 is still ready to reconcile/rehabilitate the petitioner on the sole condition that her brother Sukhchain Singh should apologize for the removal of his turban. But Sukhchain Singh is not ready to do so.

It is further stated that Harmanjeet Singh, minor son of the petitioner and respondent No.4 is studying at Sacred Heart Convent School, Thakarpura, Patti. Arshdeep Kaur, minor daughter is studying at I.T.Senior Secondary School, Bhagwanpura. Respondent No.4 Jagdeep Singh has been spending huge amount for providing good education to the children. He has also taken Insurance Policy for a sum of Rs.6,00,000/- for the minor son and Rs.2,00,000/- for the minor daughter.

Ld. Counsel for the petitioner has stated that the petitioner is ready and willing to live with respondent No.4. Keeping that in mind the petitioner has not instituted any proceeding against respondent No. 4. In view of the aforesaid stand efforts were made for a suitable resolution of the dispute between the parties but without success. Thus there is no option but to proceed to decide this petition.

The determinative consideration would be the welfare of the children.

The minor son is now aged about 5 ½ years and the daughter is about 8 ½ years. They have been living with respondent No.4 for the last about two years when the petitioner came to live at her parental house. Both the children are studying in good schools. While it would be in the interest

of the both the children that they stay together, but in the facts and circumstances of this case considering the age of the minor son who is presently aged about 5 ½ years and the fact that he has been deprived of the care and company of his mother for the last about two years, it may be in his best interest that his custody be handed over to the mother- petitioner. The petitioner is staying reasonably close to the school where the son is studying. Ld. Counsel for the petitioner has stated that there is a school van which picks up students. He further states that whenever required the child can even be taken to the school in a private vehicle.

Accordingly, this petition is disposed of with a direction to respondent No.4 to hand over the custody of the minor son - Harmanjeet Singh to the petitioner. For that purpose respondent No.4 would take Harmanjeet Singh to the Court of Additional Civil Judge (Senior Division), Patti on 16.12.2021 at about 11.00 AM where he would give the custody of Harmanjeet Singh to the petitioner in the presence of the Additional Civil Judge (Senior Division), Patti. The Ld. ACJ (SD), Patti is requested to ensure that this is done in an orderly and cordial atmosphere.

The petitioner would give a mobile number to respondent No.4 on which respondent No.4 and the paternal grandparents of Harmanjeet Singh may be able to talk to him.

This arrangement is only an interim arrangement to continue only till such time as issues of custody of the minor children are decided by a competent Court.

It is hoped that the parties would be able to resolve their disputes particularly keeping in view the interest of the minor children.

Nothing observed hereinabove, in any manner, affect the rights of the petitioner or respondent no.4 and will have no bearing upon the decision to be taken by the competent court i.e. Family Court or Guardian Court.

December 02, 2021

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No