

131 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP No.2354 of 2021
Date of Decision:08.03.2021

PRACHI MAHAJAN

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Dhruv Gupta, Advocate
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

This petition is filed under Article 226/227 of the Constitution for issuance of a writ in the nature of *habeas corpus* for the release of detenue-Kabir Verma, aged 8 years, son of the petitioner, from the alleged illegal confinement of respondents No.4 to 7.

Learned counsel for the petitioner submits that respondent No.4 is the father of the detenue and is the ex-husband of the petitioner. He draws the attention of this Court towards the Memorandum of Understanding dated 21.02.2019 entered between the petitioner and respondent No.4, to contend that a total amount of Rs.70 lakh had been paid to the petitioner by respondent No.4, and it was mutually agreed that the custody of the minor child shall remain with the husband, but she was given the visiting rights. He further states that now at this stage, the petitioner is

being deprived of the said visiting rights and she is not able to meet her son. Learned counsel for the petitioner, thus, submits that once, respondent No.4 has violated the mutually agreed terms, the minor son would be considered in his illegal confinement. In support of his contention, the learned counsel relies upon a judgment dated 09.11.2020 passed by a Co-ordinate Bench of this Court, in CRWP-5617-2020, titled as '**Arvinder Kaur vs. State of Punjab and others**'.

Having heard learned counsel for the petitioner, I do not find any merit in the present petition. Admittedly, the marriage between the parties i.e. petitioner and respondent No.4 stands dissolved by a decree of divorce dated 12.09.2019 granted by the Family Court, Saket, New Delhi. It is the case of the petitioner that respondent No.4 has violated the terms of the Memo of Understanding dated 21.02.2019, when she has been deprived of the visiting rights qua the minor child. However, such question cannot be gone into by this Court by holding that the custody of the child with the father is the one, which can be restored to the petitioner by entertaining the present petition for habeas corpus.

In view of the above, the present petition is disposed of with liberty to the petitioner to seek her legal remedy, in accordance with law.

(HARNARESH SINGH GILL)
JUDGE

March 08, 2021

Jyoti-IV

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