

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

CRWP-3080-2021

Date of decision-23.11.2021

Sharanjit Kaur

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. G.K.Mann, Senior Advocate with
Mr. Gursewak Singh, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner has filed this criminal petition under Articles 226 Constitution of India for issuance of writ in the nature of habeas corpus for release of Karanbir Singh (minor child) from the illegal custody of respondent Nos.4 to 9. Prayer has also been made to appoint a Warrant Officer to search and secure the release of the child.

Learned counsel for the petitioner has argued that the husband of petitioner, namely, Lovejit Singh (respondent No.4) has thrown her out of the matrimonial home after snatching her child (minor), who is presently two years old. Learned Senior counsel has further argued that though a complaint was given on 19.11.2019 (Annexure P-2) to the Commissioner of Police, Amritsar, however, no action has been taken upon the same. She further submits that the petitioner being mother is entitled to the custody of the child and prays

for issuance of necessary directions.

Though no formal notice of motion was issued in this case, however, short reply by way of affidavit of Dev Dutt, PPS, Deputy Commissioner of Police, West, Amritsar City on behalf of respondent Nos.1 to 3 has been filed and the same also contains the statement of respondent No.4 (Annexure R-1). As per the said statement, the petitioner had been quarrelling with her husband on petty issues and had left the house on 2-3 occasions leaving the son with the father. The allegations regarding demand of dowry etc. and cruelty have been refuted and the parties had later on arrived at a compromise and the petitioner had joined the company of her husband. As per the statement of respondent No.4 (petitioner's husband), he is still willing to habilitate his wife in the matrimonial home.

At this stage, learned Senior counsel does not dispute this fact that previously the matter was compromised between husband and wife and the said averment regarding compromise is contained in the paragraph 10 of the writ petition. Learned Senior counsel has argued that there was breakout of pandemic COVID-19, therefore, she did not take any step to get the custody of her child for the last eight months and has filed this petition on 18.03.2021.

After hearing learned counsel and considering the pleadings, this Court is of the opinion that the relations between husband and wife are strained and they are living separately for quite

some time. The marriage between the petitioner and respondent No.4 was solemnized on 04.11.2018 and their son was born on 02.10.2019. As per the stand of the petitioner herself, she had previously separated from her husband, but later on the parties had arrived at a compromise and she returned back to her matrimonial home, but unfortunately, they have again separated and the child is with the father.

During the course of hearing, it is not disputed by Ms. Mann, learned Senior counsel that all through the tough times of pandemic COVID-19, the child remained with the father and she did not take any step to get the custody of the child. The sole ground that the petitioner is mother is not a sufficient ground for exercising the extra ordinary writ jurisdiction to hand-over the custody of the minor child suddenly as the petition is founded on disputed facts. Since the alternative remedy is available with the petitioner, this Court is not inclined to exercise the extra ordinary writ jurisdiction.

Dismissed.

(MANOJ BAJAJ)
JUDGE

23.11.2021

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