

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

CRWP No. 3154 of 2021

Date of Decision: 09.04.2021

KAMALJIT KAUR

.....Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

Present: Mr. G.S. Ghuman, Advocate,
for the petitioner.

MANJARI NEHRU KAUL, J. (Oral)

Prayer in this petition filed under Article 226/227 of the Constitution of India is for issuance of a writ in the nature of *habeas corpus* for seeking the custody of the minor daughter of the petitioner namely; Jasleen Kaur, aged 7 years, from the illegal custody of her step sons, respondent Nos.4 and 5 at Bareilly, Uttar Pradesh.

On the last date of hearing i.e. 01.04.2021, learned counsel for the petitioner had sought time to satisfy this Court *qua* the maintainability of the instant petition on the point of jurisdiction on account of the following reasons:

- i) The alleged detainee was stated to have been illegally confined at Bareilly, Uttar Pradesh.
- ii) As per the petitioner's own admitted case, the alleged detainee had been left at Bareilly, Uttar Pradesh by the petitioner herself with private respondents in October, 2020, when she and her daughter (alleged detainee) had gone there for the cremation of the former's husband.

In response thereto, the learned counsel for the petitioner has vehemently stated that since part of the cause of action accrued within the

jurisdiction of this Court i.e. at Jalandhar, the instant petition was, thus, maintainable before this Court. The learned counsel has urged that prior to their visit to Bareilly in September 2020, both the petitioner and her daughter i.e. alleged detainee had not only been residing at Jalandhar but the alleged detainee had also been studying at DIPS School, Jalandhar. He has further contended that as recently as on 23.02.2021, the petitioner had also given a complaint dated 09.02.2021 (Annexure P-7) to the Home Secretary, Government of Punjab and Senior Superintendent of Police, Jalandhar, against the abusive and rude behavior of her step sons i.e. respondents No.4 and 5, wherein she had also mentioned that her minor daughter was being held hostage by the private respondents. Learned counsel has invited the attention of this Court to Annexures P-2 and P-7 in support of his averments. Learned counsel has further placed reliance upon **Umed Mal** Vs. **Union of India and Others**; 1998 Cri LJ 3465 (FB) Rajasthan. Besides this, reliance has also been placed on **Yashita Sahu** Vs. **State of Rajasthan and others**; 2020(3) SCC 67; **Nithya Anand Raghavan** Vs. **State of NCT of Delhi and Another**; 2017(3) RCR (Civil) 798 and **Shafin Jahan** Vs. **Ashokan K.M. and others**; AIR 2018 SC 1933.

I have heard learned counsel for the petitioner and perused the material on record as well as the case law on which he has placed reliance.

No doubt, anyone who is illegally or wrongfully detained, may apply for a writ of *habeas corpus*, however, Article 226 of the Constitution of India stipulates in no uncertain terms that this Court can issue the writ of *habeas corpus* only if it has the territorial jurisdiction over a person, Government or authority residing within its jurisdiction or if part of the cause of action in whole or in part has arisen within its jurisdiction.

This Court fails to comprehend as to how any part of the cause of action has even accrued within the jurisdiction of this Court. It is the admitted case of the petitioner herself that she left her minor daughter, Jasleen Kaur, (alleged detainee), in the company of her step sons i.e. respondents No.4 and 5 at Bareilly, Uttar Pradesh. Still further, the assertion of the learned counsel for the petitioner that her daughter was residing at Jalandhar prior to their trip to Bareilly in September, 2020 or even the reliance placed by the learned counsel for the petitioner on the complaint dated 09.02.2021 (Annexure P-7) given to the Home Secretary, Government of Punjab and Senior Superintendent of Police, Jalandhar would not be a cogent ground to invoke the jurisdiction of this Court as it would not amount to any accrual of cause of action within the jurisdiction of this Court. The reliance placed by the learned counsel for the petitioner on aforementioned decisions would not come to the rescue of the petitioner as the facts and circumstances are clearly distinguishable from the case in hand.

Adverting to the facts and circumstances of the instant case as urged by the learned counsel for the petitioner, it does appear to be a heart rendering human situation but this Court has no jurisdiction to entertain this petition. The petition, therefore, is hereby dismissed. However, the petitioner, if so advised, may approach the Court having competent jurisdiction over the matter for seeking issuance of appropriate writ.

April 9, 2021

Ess Kay

**[MANJARI NEHRU KAUL]
JUDGE**

<i>Whether speaking / reasoned</i>	:	<i>Yes /No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>