

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

117

CRWP-8460-2021

Date of Decision: 07.09.2021

Manish Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Ms. Arshdeep Kaur, Advocate,
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana,
for respondents no.1 to 3.

Mr. Munish Mittal, Advocate,
for respondents no.4 to 8.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On 04.09.2021, the following order was passed by this court:

“Vide this petition, the petitioner contends that his legally wedded wife, whose name is given in paragraph 3 of the petition, has been illegally detained by respondents no.4 to 8, with respondent no.4 being the father of his wife (as contended) and respondent no.8 being her mother, and with respondents no.5 to 7 being other close relatives.

Learned counsel for the petitioner submits that as a matter of fact the petitioner and his wife had earlier filed a petition before the learned Sessions Court, Kurukshetra, after they had married each other, seeking protection of their lives and liberty at the hands of the parents of the present alleged detainee and three others (not presently impleaded as respondents in the present petition).

That petition was disposed of by the learned Addl. Sessions Judge, Kurukshetra, on April 20, 2021, after the statements of respondents no.4 and 8 (as also others impleaded in that petition) were recorded by that court,

to the effect that they had no objection to the marriage of their daughter with the present petitioner, with them also having stated that both had attained the age of majority (as per the copy of the statement recorded before that court, presently annexed as Annexure P-5 with the present petition).

Thereafter, on the same day, the statements of the present petitioner and the present alleged detainee are also shown to have been recorded before that court (as per a copy thereof, presently annexed as Annexure P-6), stating to the effect that though they were earlier apprehending a danger to their lives from the respondents in that petition, however they were no longer apprehending any such danger and did not wish to proceed further with that petition.

Consequently, police protection as it seems had been earlier provided to them by that court, was ordered to be withdrawn, with the petition itself also having been withdrawn, but with that court also having observed vide its aforesaid order that no comment was made on the validity of the marriage, or otherwise.

Learned counsel for the petitioner today points to the "certificate" shown to be issued by a person describing himself as Pandit Ashok Sharma of Babain, Tehsil Thanesar, District Kurukshetra (copy Annexure P-1), stating to the effect that the petitioner herein (Manish Kumar son of Jai Pal), whose date of birth was given to him as 15.09.1993, as also Anjali daughter of Balwant Singh, whose date of birth was given to be 15.11.1999, had solemnized their marriage in the Mandir (as has been described in the said "certificate"), with the aforesaid person, i.e. Pandit Ashok Sharma, having conducted the ceremony.

Learned counsel for the petitioner submits that thereafter, on 01.09.2021, respondents no.4 to 8 alongwith 8 to 10 other persons entered the house of the petitioner forcibly and abducted his wife, they also having broken the door and windows of the house and having threatened him with dire consequences for solemnizing the marriage without their consent.

It has been further stated that the petitioner that continuously thereafter, he went for 3 or 4 days to Police Station Indri, but with no action taken by the police, with even his application not having been accepted.

Notice of motion be issued to all the respondents, returnable on 07.09.2021.

In the meanwhile, on the request of learned counsel for the petitioner, though it is not a prayer made

in the petition, as the petitioner apprehends a danger to his life, and since *prima facie* at least, the petitioner and the alleged detainee are shown to be of the age of majority (but with no strict documentary proof with regard thereto other than the copies of their Aadhar cards which is actually no such proof), and (again *prima facie*) they seem to have married each other (with again no comment actually made on the validity of such marriage by this court), a warrant officer is ordered to be appointed, who would accompany the petitioner to the police station as has jurisdiction over the address of respondents no.4 to 8. The SHO of the police station would depute a person not less than the rank of a Sub-Inspector/ASI, alongwith a lady police official, who would all thereafter visit the premises of respondents no.4 to 8, with the warrant officer to determine as to whether the alleged detainee, i.e. Anjali, is actually present in the premises there or not. If not, he would go to any other place as requested by the petitioner, where he suspects that the alleged detainee may have been kept.

If the alleged detainee is found to be residing at any of the places that the petitioner contends, the warrant officer, in the presence of the S.I./ASI and a lady police official, would produce her before the learned Area Magistrate concerned in Sessions Division, Karnal, immediately; with the learned Area Magistrate directed to record the statement of the alleged detainee (Anjali), with no other person to be present in the room at the time of such recording of her statement, with that fact to be positively ascertained by the learned Area Magistrate, by directing all present (other than the alleged detainee), to leave the premises to a very safe distance, so that whatever is stated by the alleged detainee in the presence of the Area Magistrate concerned, is not audible outside the room where the statement is recorded.

Thus, neither the petitioner nor any relative of the alleged detainee shall be present anywhere near the room where her statement would be recorded. In fact no such relative would go with the Warrant Officer to the Area Magistrate.

If the learned Area Magistrate concerned is a male and wishes to have a lady present in the room where the statement of the alleged detainee is recorded, he would direct a lady official from the court staff to be present in the room when such statement is recorded.

Naturally, the statement would be to the effect as to whether or not she wishes to stay with the petitioner, or wishes to continue to reside with her parents, or

anywhere else.

On the next date of hearing, firm proof of the age of the alleged detainee shall be produced before this court by way of an affidavit of a gazetted officer, after determining such age from the educational institution that she last attended.

The report of the warrant officer would, naturally, be also put up, alongwith the statement recorded before the learned Area Magistrate concerned, on that date.

If the alleged detainee states before the Area Magistrate that she wishes to reside with the petitioner and she is assessed to be of the age of majority by the learned Magistrate, either by way of documentary evidence or otherwise, she would be allowed to immediately go with the petitioner, with she and the petitioner to be given due protection by the Superintendent of Police, Karnal, to ensure that their lives and liberty are not put to any threat at the hands of respondents no.4 to 8, or any other person.

If, on the other hand, she is not assessed to be of the age of majority, but wishes to reside with the petitioner, she would be taken to a “safe house”/Protection Home, till the next date of hearing before this court.

If of course, she voluntarily makes a statement that she does not wish to go with the petitioner and wishes to reside with her parents, naturally, then she would be allowed to return to her parents.

It is also made clear that since in any case a warrant officer has been appointed, who would be accompanied by police officials to the residence of respondents no.4 to 8, the notice issued in this petition would be served upon respondents no.4 to 8 through the SHO, Police Station Indri, District Karnal, i.e. respondent no.3.

(Such notice would be served upon them by way of this order itself.)

The expenses of the warrant officer would be borne by the petitioner.

To be shown in the urgent motion list on 7.9.2021.”

Pursuant thereto, the report of the warrant officer appointed, dated 06.09.2021, has been put up, alongwith a “certificate” issued by the Additional Civil Judge (Senior Division)-cum-SDJM, Indri, on 05.09.2021,

stating to the effect that the statement of the victim had been recorded under her hand and (as per the assessment of that court), it seemed to have been made voluntarily.

It is further stated that as per her original 10th class examination certificate, the date of birth of the victim (alleged detainee) was shown to be 15.11.1999, and therefore she was of the age of the majority. She was duly identified by the lady head constable who had accompanied her to the court.

It has last been stated by the learned SDJM that as per the statement of the victim, she wanted to accompany her husband and therefore, she being of the age of majority, was being allowed to accompany him (i.e. the petitioner).

A copy of the statement made by the wife of the petitioner (alleged detainee), in the form of questions and answers put by the learned SDJM, has also been annexed with the “certificate”, with the said statement recorded at 4:37 a.m on 05.09.2021.

A perusal thereof shows that after stating that she was making her statement voluntarily and that her date of birth was 15.11.1999, she expressed her desire to go with her husband.

The report of the warrant officer, as also the certificate issued by the learned SDJM and the statement annexed thereto of the alleged detainee, i.e. Anjali, are ordered to be taken on record.

It is also to be noticed that a communication has been received from the learned District and Sessions Judge, Karnal, addressed to the learned Registrar General of this court, and has been put up with the case

file, with the said letter also accompanied by a sealed envelope, sealed under the signatures of the learned SDJM.

Upon opening the said envelope, it is seen that in fact it is the original handwritten document as regards the questions and answers put to the aforesaid Anjali, a copy of which is already annexed with the report of the warrant officer.

Learned counsel for the petitioner submits that the petitioners' wife having been returned to his custody, this petition has been rendered infructuous.

Disposed of as such.

(AMOL RATTAN SINGH)
JUDGE

07.09.2021
adhikari

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