

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

**Criminal Writ Petition No. 1687 of 2022
Date of Decision: 05.04.2022**

Raj Rani (minor) through Kushllya Bai

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: None for the petitioner.

Mr. Bhupender Beniwal, Assistant Advocate General, Punjab
assisted by ASI Buta Singh.

SURESHWAR THAKUR, J. (ORAL)

1. Through the instant petition, instituted by minor Raj Rani, through one Kushllya Bai, a prayer was made, that the official respondents being injuncted not to interfere in the personal life and liberty of the petitioner.

2. This Court, on 24.02.2022, had made the hereinafter extracted order:-

*“ 1. One Raj Rani (Minor) has instituted the instant petition.
2. Though, in the wake of minor one Raj Rani, upon whom the parents had a valid right of care taking, and, guardianship, and, also when neither Raj Rani could depart, without the consent of her parents, from their company nor could one Kushllya Bai take her into custody.
3. However, the learned counsel for the petitioner submits, that Raj Rani has proceeded to take the company of Kushllya Bai, as her parents are intending to, against her wishes, and, when she is yet a minor, rather marry her.
4. Consequently, the petitioner has made a prayer, that protection being granted to Raj Rani (minor), as she apprehends life endangering threats from her parents.
However, when neither Raj Rani (minor) nor Kushllya Bai, as*

stated above cannot either without the consent of her parents either join the company of Kushllya Bai nor the latter can assume any valid guardianship, upon Raj Rani. Therefore, the claim in the petition, and, as agitated on behalf of Raj Rani, by her friend Kushllya Bai, that correspondents No.1 to 3, be injuncted to give protection to the life, and, liberty of Raj Rani (minor), cannot be accepted, as thereupon, this Court would be breaching the mandate of law inasmuch as, it proceeding to untenably permit Kushllya Bai to assume guardianship qua Raj Rani (minor), whereas, her parents alone can assume valid guardianship upon Raj Rani (minor).

5. In the wake of the above, the afore relief in the petition, cannot be granted. Nonetheless, learned counsel for the petitioner seeks a direction being made, upon the respondents concerned, to take the minor at a Nari Niketan, especially in the wake of the above factum of the parents of Raj Rani (minor) without her willingness, and, when she is yet a minor, taking to marry her. Even the afore made prayer cannot be granted to the petitioners, as thereupon this Court would also proceed to, without the consent of her parents, who are still alive rather illegally, and, untenably handing over the custody of their minor child concerned, to the Nari Niketan concerned. Therefore, the afore prayer in the petition is also declined. Nonetheless in the larger interest of justice for ensuring the welfare, and appropriate care-takings of Raj Rani (minor), by her parents, it is deemed fit to direct the SHO concerned, of the Police Station concerned, to produce Raj Rani (minor) before this Court, on 11.03.2022.

6. On the afore date, the SHO of the Police Station concerned, shall also ensure the production before this Court, of the parents of Raj Rani (minor), for this Court proceeding to advise the parents of the minor child to ensure that during the course of the minor staying in their company, theirs making no ill-treatment of any kind to her.

7. For the afore purpose, list on 11.03.2022. ”

3. Subsequently, on 16.03.2022, this Court had proceeded to make the hereinafter extracted order:-

“ 1. The learned State counsel submits, on instructions given to her by ASI Balwinder Singh, that despite the sincerest efforts being made by the police agencies concerned, to mete compliance qua the orders made by this Court, on 24.02.2022 yet compliance thereto, at this stage is not amenable to be made, as the search to detect the whereabouts of both one Raj Rani (minor), and, one Kushllya with whom she was last staying, has remained futile. However, the SSP of the Police District concerned, is directed to yet deploy all the logistical wherewithals available to him, to ensure compliance being meted to the order recorded by this Court, on 24.02.2022, not only with respect to his producing Raj Rani (minor) before this Court but also his ensuring, that the latter is returned to the custody of her biological parents besides to ensure the production before this Court of the biological parents of the minor, one Raj Rani.

2. List on 05.04.2022 for above purpose.

3. The afore be ensured to be done on or before the next date of hearing. ”

4. Kushllya Bai is not related in any capacity to one Raj Rani. Moreover, since the executing officer concerned, has stated, before this Court, that the age of Raj Rani is 16 years, as of now. Therefore, obviously, she had not yet arrived at the age of majority, and, nor can validly choose to lawfully depart from the company of her bio-logical parents, namely, Gurmeet Singh (co-respondent No. 4), and, Rano Bai (co-respondent No. 5).

5. Even, upon the minor Raj Rani, appearing personally before this Court, upon, hers being produced by ASI Buta Singh, she made a testification on oath, that she is about 16 years, and, that despite hers

happily residing in the company of her bio-logical parents, yet hers

becoming abducted by one Kushllya Bai. Therefore, the above Kushllya Bai, holds no right in law, to retain the custody of Raj Rani, rather she has abused the process of Court, through hers in her purported capacity of being a guardian of the minor, hence instituting a completely mis-constituted petition before this Court.

6. Conspicuously, also when the minor, has in her statement, on oath, made echoings that she is now ready and willing to return to the company of her bio-logical parents, who also appeared personally before this Court. Therefore, the executing officer concerned, is directed to ensure that the custody of minor Raj Rani is forthwith retrieved to her bio-logical parents. He is also directed to ensure that in future, one Kushllya Bai, does not deploy any strategem for making any kidnappings of the above Raj Rani.

7. With the afore observations, the instant petition is disposed of.

April 05, 2022

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**(SURESHWAR THAKUR)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>