

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No. 238

CRWP No.1946 of 2021
Date of Decision: 01.04.2022

Ravinder

.....Petitioner

Vs.

State of Haryana & ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- None for the petitioner.

Mr. R.S. Arya, Addl.A.G., Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Article 226 of the Constitution of India seeking a writ in the nature of Habeas Corpus for issuance of a direction to produce the detinue namely Minakshi and children of the petitioner from the custody of respondent No.5 namely Rahul.

Notice of motion was issued by this Court on 25.02.2021 and in response thereto, reply by way of the affidavit has been filed by the State. However, learned counsel for the petitioner remained absent on 06.04.2021 and also on 10.09.2021. The learned counsel was present on 09.11.2021 but thereafter, again on two dates, he remained absent and therefore, on 25.02.2022, this Court had observed that if the learned counsel for the petitioner does not appear then the matter will be taken up for further consideration on its own merits.

Today again learned counsel for the petitioner is absent. Therefore, this Court would proceed with the present petition on the basis of the pleadings and the reply filed by the State and with the assistance of learned State counsel.

The case of the petitioner was that the detinue Minakshi is his wife and has been illegally detained by respondent No.5.

Learned State counsel while referring to the reply filed by the State has submitted that after the notice of motion was issued by this Court, the petitioner was contacted and his statement was also recorded by the local police and he stated that his marriage was solemnized with Minakshi in the year 2012 and the aforesaid Minakshi is 28 years of age and therefore, major and they have two children. On 24.12.2019, he and his wife went to the temple along with children and when they were returned back and reached at the old bus stand, then his wife sent him to bring some necessary commodities from the market at Tapukra, District Alwar, Rajasthan and when he returned back his wife and children were not found at the spot. The petitioner thereafter made an inquiry and found that she has gone away with Rahul-respondent No.5. The wife and children of the petitioner were located by local police of Rajasthan and were produced before the learned SDM, Tijara, Rajasthan, who recorded her statement and she had specifically contended that she does not want to go with the petitioner and she had also stated that she wants to go with Rahul (respondent No.5) who resides in District Alwar and therefore, the aforesaid Minakshi was handed over to Rahul along with her children. The statement of Minakshi has also been attached as Annexure R-1. It has been further submitted in the affidavit that the aforesaid Minakshi is now residing happily with Rahul.

Since the present petition is for seeking a writ in the nature of habeas corpus, the aforesaid detenue was produced before the Magistrate at Rajasthan and she had made a statement that she wants to live with respondent No.5 and not with the petitioner. The aforesaid Minakshi is major and is stated to be 28 years of age and according to her statement and the affidavit filed by the State, she is living happily with aforesaid Rahul and therefore, it cannot be said that she is in the illegal custody of Rahul as she is major and has a choice of place to live.

In view of the aforesaid facts and circumstances, the present petition is devoid of any merit and the same is hereby dismissed.

01.04.2022

monika

(JASGURPREET SINGH PURI)

JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No