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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-3883-2022 (O&M)
Date of Decision:26.04.2022

Bhupendra Kumar

.. Petitioner

Vs.

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rohit Choudhary, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

This criminal writ petition has been filed under Article 226 Constitution of India for issuance of writ in the nature of Habeas Corpus directing respondent Nos.1 to 3 to get the detinue, namely, Sushma, who is legally wedded wife of the petitioner, released from the illegal custody of respondent Nos.4 to 7 and their relatives.

Learned counsel for the petitioner has argued that the detinue, namely, Sushma (wife of the petitioner) had entered into a valid marriage with the petitioner against the wishes of her parents and as their alliance was opposed by the private respondents, the petitioner along with his wife was compelled to approach this Court to seek protection through CRWP-517-2022. Learned counsel has drawn the attention of the Court to the order dated 20.01.2022 (Annexure P-1) to submit that the said petition was disposed off with a direction to the Superintendent of Police, Palwal to look into their representation and decide the same. He submits that the petitioner along with his wife was residing happily, but the private respondents

forcibly took away his wife, therefore, he is constrained to invoke the extra

ordinary writ jurisdiction of this Court to seek her custody. He submits that though in this regard, he has given a representation to respondent No.2-Superintendent of Police, Palwal (Annexure P-3), but till date no action has been taken upon the same, therefore, the writ in the nature of habeas corpus be issued.

During the course of hearing, it is not disputed that the alleged marriage of the petitioner with the detenue was performed on 15.12.2021, but before that, a case FIR No.508 dated 14.12.2021, under Section 363 IPC already stood registered against the petitioner at the instance of respondent No.4. He fairly states that in the said FIR case, the petitioner has already been released on anticipatory bail vide order dated 07.04.2022 (Annexure P-2).

After hearing the learned counsel for the petitioner and considering the above background, this Court finds that the alleged marriage performed by the petitioner with the detenue is a disputed fact, as this Court while disposing off the earlier criminal writ petition filed by the petitioner and detenue, had not commented upon the validity of this alliance. Learned counsel has produced the copy of application filed under Section 438 Cr.P.C. before the Court of Sessions to seek pre arrest bail, and in the said proceedings, the marriage certificate relied upon by him was got verified, and it was found to be fake. Apart from it, though the action of the respondent in forcibly taking away the wife of the petitioner was resisted by the petitioner, who allegedly suffered injuries in the said occurrence also, but no medical record has been produced. Since, the daughter is residing with the parents, therefore, it cannot be construed at the instance of the petitioner (accused) that she is residing with strangers and is in illegal

detention. It may be noticed that the petitioner used to reside with the parents of the girl as a tenant and as per allegations in the FIR, he enticed away the girl, which led to the registration of case against him.

The above background makes it abundantly clear that the entire case of the petitioner is founded upon the disputed facts, therefore, this court is not inclined to exercise the extraordinary writ jurisdiction, as the petitioner can very well avail alternative remedy, in accordance with law.

Dismissed.

26.04.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No