

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Writ Petition No.385 of 2018
Date of Decision: February 02, 2022

Paramvir Singh

...Petitioner

Versus

Harjit Kaur & others

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Maninder Singh Saini, Advocate,
for the petitioner.

None for respondent Nos.1 & 2.

Mr.Ramandeep Sandhu, Sr.DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Article 226 Constitution of India for issuance of a writ in the nature of habeas corpus for releasing detenue Navreet Kaur (daughter of the petitioner) from the illegal detention of respondent Nos.1 and 2, who has been confined in the house by them against her wishes.

The facts, in brief, are that the marriage of the petitioner was solemnized with respondent No.1-Harjit Kaur on 31.07.2004 and out of the said wedlock, one son and a daughter were born. Since the couple was not having cordial relations throughout the matrimonial period, therefore, they decided to get mutual divorce and filed petition under Section 13-B Hindu Marriage Act, 1955. After recording the statements of both the parties, vide

judgment and decree dated 06.04.2017 (Annexure P-1), the marriage between the parties was dissolved. As per averments, the parents of respondent No.1, being dissatisfied and unhappy with the conduct of their daughter, moved an application during the pendency of the petition under Section 13-B Hindu Marriage Act making a prayer for not recording the statements of the parties as their daughter was under pressure of gangster Major Singh, and they had given a public notice in the local newspaper “Pehredar” dated 21.02.2017 proclaiming that their daughter Harjit Kaur was out of their control and they will not be responsible for any transaction by her. Respondent No.1 handed over Navreet Kaur to petitioner on 16.09.2016 in Police Station, Phul as she was not in a position to look after her, who was studying in Ist Standard in St.Xavier School, Rampura Phul. On 10.10.2016, her name was struck off from the school records and after that, petitioner got her admitted on 12.10.2016 in the Oxford School of Education in Ist Standard Bhagta Bhai Ka (Bathinda) and had been paying the fees regularly. It is pleaded that on being insisted by respondent No.1, petitioner accepted her proposal for keeping the children for the whole day on 25.03.2018 and the C.D.containing the conversation between petitioner, respondent No.1 and Navreet Kaur is annexed with the petition as Annexure P-8. It is pointed out that on 25.03.2018, respondent No.1 left son Prince Karambir Singh on the outskirts of village of the petitioner, who after reaching home told his father (petitioner) that respondent No.1 had handed over Navreet Kaur to two persons on the way while coming in car. Hence this petition.

Learned counsel for the petitioner has argued that his daughter, namely, Navreet Kaur, who was eight years old, was residing with him

when he divorced his wife Harjit Kaur (respondent No.1), who was taken away by the respondents and as the child is in illegal custody, therefore, the petitioner, being father, is entitled to the custody of the child. He submits that the judgment and decree dated 06.04.2017 based upon mutual consent of the parties is on record as Annexure P-1.

Despite service of respondents, no reply has been filed on behalf of respondent Nos.1 and 2.

During the course of hearing, it is conceded by the learned counsel for the petitioner that while recording the statements of the parties at the time of second motion in the petition under Section 13-B Hindu Marriage Act, 1955, the petitioner legitimately had given the custody of the daughter to respondent No.1, and he had also paid the permanent alimony for both of them. Apart from it, an undertaking was also given by respondent No.1 that the daughter would not claim any right in the property of the petitioner. The statements recorded before the District Judge, Bathinda in the said proceedings are also on record and the relevant observations contained in para 3 of the judgment read as under:-

“3. Today also i.e. on 6.4.2017, the petitioners suffered their statements reiterating the averments made by them before the Court on 9.9.2016 and stated that thereafter, there has been no re-union between them. Petitioner Harjeet Kaur has received two demand drafts bearing No.310419 dated 29.3.2017 of Punjab National Bank of the amount of 18,00,000/- & No.310420 dated 29.3.2017 of the amount of Rs.12,00,000/- of Punjab National Bank, totalling Rs.30,00,000/-, from the petitioner Paramvir Singh towards permanent alimony i.e. for past, present and future maintenance for her as well as for minor daughter. Nothing remains due towards each other. She has undertaken that she will not claim any type of maintenance

from the petitioner Paramvir Singh either for her or on behalf of minor daughter and shall have no right in his properties in future. Consequently, a prayer for acceptance of the joint petition for the dissolution of marriage by way of mutual consent has thus been made.”

A reading of the above would make it absolutely clear that petitioner-father had voluntarily given up the custody of his daughter to his wife and has filed this petition on untenable grounds.

Considering the above background, this court does not find any convincing ground for exercise of extra-ordinary writ jurisdiction.

Dismissed.

February 02, 2022
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No