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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-9077-2021
Date of Decision:24.05.2022

Lakhan

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: None for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Mr. T.S. Hundal, Advocate, for respondent No.4.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Article 226 of the Constitution of India with a prayer for issuance of a writ in the nature of Habeas Corpus and for appointment of a Warrant Officer for searching the detenue namely Vidia Wati wife of the petitioner. The present petitioner is Lakhan son of Ramcharan.

Nobody has caused appearance on behalf of the petitioner and the same was the position on the last date of hearing i.e. 11.01.2022 and rather this Court had directed the Registry to inform the learned counsel for the petitioner with regard to the next date of hearing by way of written communication. A note has been given by the Registry that letter sent to the counsel Mr. Rajinder Pal Saini was received back with a report that this

client is not in his contact from last two months and he is not dealing with this case. However, the counsel for the petitioner has not appeared before this Court.

In view of the aforesaid circumstances, this Court will proceed with the present case even in the absence of the learned counsel for the petitioner.

This petition was filed by one Lakhan on the ground that he is married to the alleged detainee namely Vidia Wati and she is being illegally detained by respondents No. 4 to 6. Respondent No.4 is the father of Vidia Wati and respondents No.5 and 6 are brothers of Vidia Wati.

Mr. T.S. Hundal, learned counsel appearing on behalf of respondent No.4 has stated that the aforesaid Vidia Wati is not residing with respondent No.4 who is father of the aforesaid Vidia Wati .

This Court while issuing notice of motion had also directed the Senior Superintendent of Police, Patiala to depute a responsible lady officer to visit the place where the aforesaid Vidia Wati is residing and in case, it was so required, then to produce her before the learned Illaqa Magistrate for recording her statement with a further direction that in case the lady police officer was satisfied some protection is also required to be granted, then the same be also done.

Mr. Randhir Singh Thind, learned Deputy Advocate General, Punjab has submitted that a status report dated 18.12.2021 has been filed by the Deputy Superintendent of Police, Circle Rajpura, District Patiala and while referring to para No. 8 and 9 of the affidavit, he submitted that the aforesaid Vidia Wati was married to one Rajvir son of Sher Singh and out of this wedlock there were three children of the age 17 years, 14 years and

10 years. Thereafter Vidia Wati got married with the petitioner namely Lakhan without getting divorced from her earlier husband. Various efforts were made for recovering the aforesaid Vidia Wati from her earlier husband and she was produced before the Court of learned Judicial Magistrate Ist Class, Khanna, where her statement was got recorded by the learned Magistrate under Section 164 Cr.P.C and a copy of the same has been attached as Annexure R-5/T. Before the learned Magistrate the aforesaid Vidia Wati on 04.12.2021 stated that she is married and she has three children and her husband is also there. She had stated that she is apprehending danger at the hands of the parents of the petitioner Lakhan and earlier also they tried to kill her, so that she can leave their son. She further stated that she left him due to fear from his parents but he wants to take her but due to his mother, she does not want to go with him i.e. the petitioner. She further stated that she wants to go with Rajveer (earlier husband). As per the affidavit filed by the State, she was sent with her earlier husband namely Rajveer from whom she has three children.

In view of the aforesaid facts and circumstances, the petition for grant of writ in the nature of Habeas Corpus cannot survive since it cannot be said that there is any illegal custody of the aforesaid Vidia Wati as she is voluntarily residing with her husband from whom she has three children.

Consequently, finding no merit in the present petition, the same is hereby dismissed.

24.05.2022

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No