

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

268

CRWP-9026 of 2022

Date of Decision:15.11.2022

Jubair

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Nafeesh Ahmed, Legal Aid Counsel,
for the petitioner.

Mr. S. K. Dagar, DAG, Haryana

Mr. V. S. Punia, Advocate,
for respondent No.6.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Article 226 of the Constitution of India seeking for issuance of a writ in the nature of *habeas corpus* for directing respondents No.1 to 5 to produce the detenue namely Arshida whose age is stated to be 31 years and stated to be the wife of the petitioner, from the illegal detention of respondents No.6 and 7.

Learned counsel for the petitioner has submitted that respondent No.7 could not be served and he may be given up being unnecessary respondent.

Learned counsel for the petitioner submitted that the aforesaid alleged detenue namely Arshida is the wife of the petitioner and she has been illegally detained by respondent No.6. He submitted that after issuance of the notice of motion by this Court, the State has filed a status report in which it has been stated

that the statement of the aforesaid alleged detenue was got recorded under Section 164 of the Code of Criminal Procedure before the learned Illaqa Magistrate in which she has stated that she is living voluntarily with respondent No.6 namely Gurdeep. He submitted that the alleged detenue is the wife of the petitioner and has got minor children and therefore it will be the interest of justice to direct that the alleged detenue may live with the petitioner for prosperous family life.

On the other hand, Mr. S. K. Dagar, learned DAG, Haryana as well as the learned counsel appearing on behalf of respondent No.6 have stated that it is a case where the petitioner had given beatings to the detenue who is his wife and thereafter she has left the matrimonial home and started living with respondent No.6. The learned State counsel while referring to paragraph 6 of the affidavit submitted that the statement of the aforesaid alleged detenue which was got recorded before the learned Illaqa Magistrate under Section 164 of the Code of Criminal Procedure and her statement has been annexed as Annexure -R-1 and has submitted that a perusal of the same would show that she has specifically stated that she was married with the petitioner and has got three children but he had beaten her up and due to the same she thought of running away from him and she met respondent No.6 namely Gurdeep. She has also stated that she has solemnized marriage with Gurdeep on 02.09.2022 in Hisar Court and stated that she has danger to her life. In her statement, she has specifically stated that she wants to reside with Gurdeep, i.e. respondent No.6. The learned State counsel has submitted that in view of the statement made by the alleged detenue before the learned Illaqa Magistrate, it cannot be said that the detenue who is 31 years of age, is in any illegal confinement.

I have heard the learned counsel for the parties.

The present petition has been filed seeking grant of a writ in the nature of *habeas corpus*. However, as per the affidavit filed by the State and as per the submissions made by the learned State counsel, the aforesaid alleged detenue was produced before the learned Illaqa Magistrate before whom she has specifically stated that due to the beatings by the petitioner, she has left her matrimonial home and starting living with respondent No.6 Gurdeep and that she wants to reside with Gurdeep. Therefore, it cannot be said that there is any illegal detention of the aforesaid alleged detenue. Consequently, finding no merit in the petition, the same is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

November 15, 2022
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No