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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRWP-9255-2022

Date of Decision: 10.10.2022

Kamlesh

..... Petitioner

Versus

State of U.T. Chandigarh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sarvesh Kumar Gupta, Advocate for
Mr. Parveen Chauhan for the petitioner.

Mr. Deepak Malhotra, Advocate for
Ms. Simsi Dhir, Advocate,
for U.T., Chandigarh.

JASGURPREET SINGH PURI, J. (ORAL)

Status report by way of an affidavit of ASP, SDPO, South West Chandigarh has been filed on behalf of the respondent/U.T., Chandigarh in Court today and the same is taken on record.

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 to raid the premises of respondent Nos.4 & 5 and to recover the detainee, namely, Karnail Kaur, who is the mother of the petitioner, from the alleged illegal confinement of respondent Nos.4 & 5 and to produce her before this Court.

The grievance of the petitioner was that the petitioner is the daughter of the alleged detainee, namely, Karnail Kaur and had stated that her mother, who was living with her has been forcibly taken away by respondent Nos.4 & 5, who are her real brothers and the sons of the

aforesaid Karnail Kaur because the father of the petitioner had disowned her brothers from the property and her mother has been abducted for the purpose of getting her signatures on some documents for grabbing the house which is owned by her mother.

When this matter came up for hearing before this Court on 22.09.2022 for preliminary hearing, this Court had categorically put a query to the learned counsel for the petitioner as to whether the mother of the petitioner is being forcibly kept in the house of respondent Nos.4 & 5 or not, who are her sons, the learned counsel for the petitioner had stated on specific instructions from the petitioner that the aforesaid Karnail Kaur has been forcibly kept and was forcibly taken away by respondent Nos.4 & 5 on 10.09.2022. The reason for putting a query to learned counsel for the petitioner was that the alleged detainee, namely, Karnail Kaur is the age of 81 years and in order to rule out any possibility of any other ulterior reasons, the petitioner might have filed the present petition for her own ulterior motive particularly in view of the fact that respondent Nos.4 & 5 are the sons of the aforesaid Karnail Kaur. The learned counsel for the petitioner stated that he has taken specific instructions from the petitioner that the aforesaid lady was taken away forcibly. Still this Court as a matter of abundant caution had directed the SSP to depute a lady police official to ensure that in case the detainee is not safe then adequate safety be granted to her and had also directed to ensure that the lady police official does interaction with the alleged detainee in a comfortable and cordial manner so that the old lady of the age of 81 is not put to any awkward or embarrassing or traumatic position because of the visit of the police official in the house.

Today, a status report by way of an affidavit of ASP, SDPO, South West Chandigarh has been filed by the learned counsel for the U.T., Chandigarh and along with the same the statement of the aforesaid Karnail Kaur has also been attached. The lady police official, who had gone to the house of respondent Nos.4 & 5, is also present in the Court and has stated that a proper comfortable and cordial atmosphere was provided and the aforesaid Karnail Kaur has given her statement in a voluntary manner. As per the statement of the aforesaid Karnail Kaur, she has stated that the petitioner, who is her daughter, has not treated her well and has not taken care of her and even when she fell ill in July, 2022, she had asked her son to take her with him but the petitioner did not allow her to talk to him. She has also stated that the petitioner has been taking away her whole pension and that is why the aforesaid Karnail Kaur had blocked her ATM card. She specifically stated in her statement (Annexure R-1) that she has not been kidnapped and she is very happy with her sons, namely, Ashok Kumar and Sukhwinder Kumar (Respondent Nos.4 & 5).

Learned counsel appearing on behalf of the petitioner has stated that in view of the reply filed by the State along with the statement of the aforesaid Karnail Kaur, he does not wish to press the present petition and prays for withdrawal of the same.

The prayer of the petitioner can be well accepted, subject to payment of some costs. At the time of notice of motion, a specific query was asked to the learned counsel for the petitioner and he on specific instructions from the petitioner had stated that the aforesaid Karnail Kaur has been taken away forcibly by respondent Nos.4 & 5. Therefore, the

statement made by the petitioner through counsel was false. The result of the same was that acting upon the false statement of the petitioner, this Court had directed the police official to visit the house of an old lady of the age of 81 years. Although as per the lady official, who is present in the Court, atmosphere was comfortable and cordial but this situation has arisen that the police official had to visit an old lady of the age of 81 years because of false statement made by the petitioner and therefore, it will be just and proper and also in the interest of justice to impose costs upon the petitioner.

Consequently, the learned counsel for the petitioner is permitted to withdraw the present petition subject to payment of costs of Rs.20,000/-. The costs shall be paid by the petitioner by way of a demand draft in the name of her mother, namely, Karnail Kaur, within a period of 30 days from today. The draft of Rs.20,000/- shall be handed over in the office of SSP, Chandigarh and on the receipt of the same, the concerned SSP through a lady police official shall hand it over to the aforesaid Karnail Kaur.

In case the amount is not paid within the aforesaid period then the same shall be recovered from the petitioner as the arrears of land revenue along with interest.

List this case after 30 days for the purpose of compliance.

10.10.2022

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |