

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRWP-1672-2023
Decided on : 28.04.2023

Tejinder Singh

. . . Petitioner(s)

Versus

State of Punjab and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Amandeep Singh Samra, Advocate
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

1. After hearing at length, on 17.04.2023, following order was passed:

“1. Instant petition is for issuance of a writ in the nature of habeas corpus for releasing of alleged detainee, namely, Rekha Rani, who is said to be detained by respondent No. 5 i.e. Gandhi Vanita Ashram, 8HP6+48X, Kapurthala- Jalandhar Road, Near Mand Complex, Sangat Colony, Adarsh Nagar, Jalandhar, Punjab- 144008.

2. Order dated 06.01.2023 passed by this Court in CRWP No. 11874-2022, suggests that petitioner and Rekha Rani (projected as illegally detained person in the present petition) had filed one protection petition and same was withdrawn by petitioner after noticing of certain facts by this Court.

3. Order dated 06.01.2023 passed by this Court in CRWP No.11874-2022 says as under:-

“On 05.01.2023 following order was passed by this Court:

“Learned counsel for the petitioners submits that as observed in order dated 19.12.2022 passed by this Court, petitioner No. 2-Tejinder Singh is not in a position to provide financial security to his earlier wife Jyoti (respondent No. 9) and daughter namely, Loveleen Kaur, aged about 4 years.

Learned State counsel assisted by ASI Bikkar Singh and learned counsel representing the private respondents also point out that in fact, petitioner No. 1- Rekha Rani is a minor girl, who has been projected as aged 22 years.

In support of his contention, learned State counsel files a detailed reply dated 04.01.2023 on behalf of respondents No.1 to 3 and points out that as per actual Adhaar Card of petitioner No. 1, her date of birth is 01.01.2005. It is also pointed out that even as per the school certificate dated 09.12.2022 issued by Government Primary School, Dirba, District Sangrur, date of birth of petitioner No. 1 is recorded as 10.07.2005. Alongwith said reply, a vernacular copy of FIR No. 147 dated 10.12.2022 under Sections 363 and 366-A IPC registered at Police Station Dirba, District

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Sangrur has also been attached. Said reply alongwith school certificate (Annexure R1/T), photocopy of Adhaar Card of petitioner No. 1

and vernacular copy of FIR is taken on record.

Registry is directed to tag the same at appropriate place.

While referring to the said FIR No. 147 dated 10.12.2022, State counsel further points out that in this FIR, petitioner No. 2 has been named as accused Jitender whereas, Jitender and Tejinder is one person.

Faced with the submission recorded here above, counsel for the petitioners seeks some time to get necessary instructions. In the interest of justice, adjourned to 06.01.2023."

Learned counsel for the petitioners seeks withdrawal of the present petition.

Dismissed as withdrawn.

Petition stands disposed of."

4. *On the other hand, Mr. J. S. Arora, DAG, Punjab, refers to paragraph No. 8 of the status report filed by him and also the letter dated 07.02.2023 sent by the Court of learned JMIC, Sunam to Superintendent Children Home, Gandhi Vaneeta Ashram, Jalandhar.*

Para 8 is reproduced here below:-

"8. That on the same day i.e. 07.02.2023 Rekha Rani was produced in the Learned Court of Ms. Lovejinder Kaur, JMIC Sunam for recording her statement under section 164 CRPC. Her statement was recorded by the Learned Court under section 164 CRPC. As per her statement she shown apprehension from her family and other relatives. Thereafter the Learned Court of Ms. Lovejinder Kaur, JMIC Sunam passed the order dated 07.02.2022. Copy of order of JMIC, Sunam is Annexed herewith as Annexure R-3/T. "

Translated version of letter dated 07.02.2023, appended with short reply as Annexure R-3, is also reproduced here below:

"To

*Superintendent, Children Home,
Gandhi Vaneeta Ashram,
Jalandhar.*

Sub: Through Surjit Singh son of Kuldeep Singh resident of Bazigarh Basti, Dirba, District Sangrur.

Versus- Tejinder Singh @ Teji son of Darshan Singh resident of Ballar Basti, Dirba.

FIR No. 147 dated 10.12.2022 under Sections 363, 366-A, Police Station Dirba.

"Due to age of girl Rekha Rani under 18 years and with the wish of girl Rekha Rani daughter of Surjit Singh son of Kuldeep Singh resident of Bazigarh Basti, Dirba, District Sangrur, order is passed to keep her at Superintendent, Children Home, Gandhi Vaneeta Ashram, Jalandhar. Girl be again produced on 20.02.2023.

Sd/-

*Judicial Magistrate Ist Class, Sunam,
07.302.2023."*

Thus, learned DAG, Punjab submits that petition is liable to be dismissed.

5. *It is also noticed by the Court that the petitioner is aged about 32 years and the alleged detainee is a minor girl and in regard to the kidnapping of said detainee, he is already facing proceedings in FIR No. 147 dated 10.12.2022 under Sections 363, 366-A IPC registered at Police Station Dirba, District Sangrur.*

6. *Looking at the status report and the order passed by learned Magistrate and also noticing the fact that the petitioner is a matured person, this Court is unable to find any reason to observe that said Rekha Rani, who is a minor, has been illegally detained by the Ashram. Rather issue in regard to the age can not be decided in the present petition and*

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same would be the subject matter of the FIR proceedings (FIR No.147 dated 10.12.2022).

7. After hearing the respective parties and considering all the aspects and also examining the record thoroughly, I find no substance in the petition for entertaining the prayer made by the petitioner. Though, counsel for the petitioner seeks withdrawal of the present petition but this Court does not feel it appropriate to allow such prayer, rather deems it appropriate that before disposing of the petition, petitioner be subjected to deposit cost amount of Rs. 20,000/-, with the 'Punjab and Haryana High Court Bar Association Lawyers Family Welfare Fund (Current A/c No.: 41564846387)'.

8. Adjourned to 28.04.2023.

9. Meanwhile, petitioner would deposit the cost amount as observed here-in above and receipt thereof be produced in Court on the next date of hearing."

2. In compliance to the order directing the petitioner to deposit an amount of Rs.20,000/, petitioner produces the original receipt No.119 dated 21.04.2023 issued by Punjab & Haryana High Court Bar Association Lawyers Family Welfare Fund and same is taken on record. Registry is directed to tag the same at appropriate place.

3. In view of the submissions addressed and recorded by this Court in previous order dated 17.04.2023 and the observations made thereon by this Court, this Court does not find any substance in the petition.

4. Dismissed.

(SANJAY VASHISTH)
JUDGE

April 28, 2023

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No