

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

212

CRWP-9189-2022

Decided on : 17.02.2023

Brijinder Singh Daulta

. . . Petitioner(s)

Versus

U.T. Chandigarh and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Saurabh Dalal, Advocate
for the petitioner(s).

Mr. Akashdeep Singh, Addl. PP, UT, Chandigarh.

Dr. Tammanna R Sahrawat, Respondent No.4 (in-person)

SANJAY VASHISTH, J. (Oral)

Following order was passed on 16.02.2023.

“On 21.09.2022, following order was passed:-

“By way of present petition, filed under Article 226 of the Constitution of India, prayer has been made for issuance of a writ in the nature of habeas. Learned counsel for the petitioner contends that petitioner is real brother of detenue, Ujjwal Seharawat d/o Partap Singh Daulta, who has been illegally detained by respondent No. 4 for the last three months. Notice of motion for 13.10.2022. Mr. Akashdeep, Addl. P. P. UT, Chandigarh appears and accepts the notice on behalf respondents No. 1 to 3. Respondent No. 3-S.H.O., Police Station, Sector-11, Chandigarh, is hereby directed to visit the places of detention of the alleged detenue and record detenue’s statement within two weeks from today. Status report in this regard be filed before this Court on or before the next date of hearing.”

Again on 24.11.2022, following order was passed:-

“Status report dated 04.10.20212, by way of affidavit of of Inspector Jasbir Singh, SHO, Police Station Sector 11, Chandigarh, has been filed in Court today, which is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

A copy thereof has been handed over to the counsel for the petitioner.

Para No.2 of the status report says as under:-

“2. That vide order dated 21/09/2022, this Hon’ble Court directed Station House Officer, PS-11, to visit

the place of detention i.e., House No.90, Sector 2, Chandigarh and record the statement of Detenue, accordingly on 22/09/2022, Station House Officer, PS-11 (Respondent No.3), visited House No.90, Sector 2, Chandigarh and statement of the alleged detenue was recorded, whereby she has specifically stated that she had not been detained by anyone and that she is residing peacefully with her freewill. The said statement dated 22/09/2022 is attached herewith as Annexure R/1.”

Respondent No.4 – Dr. Tammanna R. Sehrawat appears in person and seeks an adjournment for filing reply, and making her submissions.

On inquiry from Court respondent No.4 states that alleged detenue ‘Ujjawal Sehrawat’, is aged about 70 years, she being respondent No.4 here in the petition resides in the house owned by her mother namely Ujjawal Sehrawat (detenue).

Although scope of the present petition is very limited, and in specific when the statement of alleged detenue, who is stated to be aged 70 years is recorded by the official respondents, who states that “she had not been detained by anyone and that she is residing peacefully with her free will.”; nothing much is left to decide in it.

Still in the interest of justice and to explore the possibility of peaceful settlement of all the issues amongst the members of the family, matter is adjourned to 15.12.2022.”

Reply by respondent No.4 has already been filed and the same is taken on record.

Stand of the State i.e. U.T., Chandigarh has already been recorded in order dated 24.11.2022 according to which alleged detenue has herself stated that she has not been detained and residing peacefully with her free will. Today, there being no representation on behalf of the petitioner, in the interest of justice, adjourned to 17.02.2023.

Registry is directed to inform the learned counsel for the petitioner telephonically about the next date of hearing.”

Faced with the situation, and in view of the stand taken by UT, Chandigarh in the status report dated 04.10.2022, filed in the Court, counsel for the petitioner seeks withdrawal of present petition.

However, respondent No.4 – Dr. Tammanna R. Sehrawat, who is appearing in-person, while objecting to the simple withdrawal, submits that such petitioners’ who approached the Court without any authority and the complete facts, should be subjected to the payment of heavy costs for misusing the extraordinary constitutional powers of the Court. Respondent

No.4 further submits that present case has been filed by Major General Brijender Singh Daulta through his Special Power of Attorney (SPA)Sh. Rudra Pratap Singh Daulta s/o Major General Brijender Singh Daulta, r/o 1/30, Adarsh Nagar, Delhi Road, Rohtak. She further refers to the SPA dated 06.07.2022, bearing No. G0F2022G1143, GRN NO. 91850016, and submits that said SPA is only for a limited purpose to pursue the civil case titled as, "Mrs. Ujjwal Sehrawat Vs. State of Haryana & Ors." pending in the Civil Courts, Panchkula, Haryana. The said SPA is reproduced hereinbelow:-

"SPECIAL POWER OF ATTORNEY"

Be it known to all I, Brijinder Singh Daulta S/o Late Sh. Pratap Singh Daulta, aged 70 years, R/o H.No. 1/30, Adarsh Nagar, Delhi Road, Rotak (Haryana)-124001 and presently at Gurugram, Haryana, have filed an application for impleading as party in a case titled as "Mrs. Ujjwal Sehrawat Vs. State of Haryana & Ors." pending in the Court of Civil Courts, Panchkula, Haryana. It is indeed difficult for me to attend the above mentioned case being old aged person and health and as such, I do hereby appoint, nominate and constitute my son Rudra Pratap Singh Daulta S/o Sh. Brijinder Singh Daulta, R/o H.No. 1/30, Adarsh Nagar, Delhi Road, Rohtak (Haryana)-124001, to be my lawful Special Power of Attorney to pursue the said case on my behalf.

By virtue of this Power of Attorney, my Power of Attorney holder is authorized to do the following acts, things and deeds on my behalf:-

That my above said Attorney shall have power to appear and pursue the above mentioned suit and to file application, affidavit and Vakalatnama etc. on my behalf before the concerned court in the said case. My Attorney is also authorized to make any statement by way of evidence and file documents on my behalf before any Court of Law/Office and Authority and the same will be acceptable to me.

That my Attorney shall have power to engage Advocate for and on my behalf to suffer statement on my behalf with regard to above mentioned case.

And specially to do all other acts, deeds and things which could not be specifically mentioned above, but are necessary to be executed, signed for the above mentioned case(s) under his own signatures.

I do hereby ratify and confirm all acts, deeds and things done by me

said Attorney as if the same were done by me in person.

To do all the acts, deeds and things on my behalf in respect of the above said case and the acts done by my Attorney shall be binding on me and shall be treated to have been done by me personally.

So, this Special Power of Attorney is executed at Gurugram on this 6th day of July, 2022 in the presence of witnesses.

WITNESSES:

EXECUTANT

1. Sd/-

Surinder Singh, Adv. Gurgaon

Sd/-

(Brijender Singh Daulta)

2. Sd/-

Ranbir Singh, Adv. Distt. Courts, Gurugram. ”

Undoubtedly, it is clear that as per SPA, which has been used by the petitioner for filing the present petition to seek writ in the nature of *Habeas Corpus*, does not authorized the SPA to file any such petition in specific. Thus, the present petition even could not be entertained on the basis of said SPA. Had said fact been brought to the notice of this Court, prayer made herein would not have been accepted.

After considering the prayer made by the petitioner for withdrawal of the present petition, and also noticing of the objection addressed by respondent No.4, this Court is allowing the petitioner to withdraw present petition.

Dismissed as withdrawn.

However, petitioner is cautioned that in future no such practice should be repeated.

(SANJAY VASHISTH)
JUDGE

February 17, 2023

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No