

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

LPA-955-2022

Date of Decision: 11.01.2023

Tasbir Singh Sheoran

.....Appellant(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: None for the appellant.

Mr. Ankur Mittal, Addl. A.G., Haryana,
with Mr. Saurabh Mago, AAG, Haryana.

Mr. Munish Kumar Garg, Advocate,
for respondent Nos.4 to 7.

G.S.SANDHAWALIA, J. (Oral)

Mr. Munish Kumar Thakur, Advocate has filed *Vakalatnama* on behalf of respondent Nos.4 to 7. None is present on behalf of the appellant. Even on the last date of hearing when notice of motion was issued, none was present.

The dispute pertains to the custody of Sarita, who is stated to have married to respondent No.4-Parveen Kumar on 21.04.2022 and had preferred a protection petition before the Sessions Judge, Jind, which was dismissed as withdrawn on 04.08.2022 with directions also to contact the Superintendent of Police in case of any threat (Annexure P-6).

Apparently, the father filed the CRWP No. 8503 of 2022 as such in the nature of habeas corpus to recover and produce the daughter and the learned Single Judge, vide order dated 22.09.2022, passed the following order:-

“Learned counsel for the State submits that

clinical examination was conducted, as per which, IQ score of the detenue was around 74. It was further observed that she had desired to stay with her husband.

Given above, the present petition for habeas corpus which was on the allegations that detenue was forced to live against her will, is not maintainable.

Petition is disposed of accordingly. Liberty reserved to take other legal remedies in accordance with law. Pending applications, if any, stand disposed of.”

Apparently, it seems that the appellants have reconciled to the aspect that their daughter has married someone without their wishes. Even otherwise, we are of the considered opinion that the appeal would not be maintainable in view of the judgment of the Apex Court in ***Ram Kishan Fauji vs. State of Haryana and others, 2017 AIR (SC) 1535*** wherein it has been held as under:-

“61. As we find from the decisions of the aforesaid three High Courts, it is evident that there is no disagreement or conflict on the principle that if an appeal is barred under Clause 10 or Clause 15 of the Letters Patent, as the case may be, no appeal will lie. The High Court of Andhra Pradesh, however, has held that when the power is exercised under Article 226 of the Constitution for quashing of a criminal proceeding, there is no exercise of criminal jurisdiction. It has distinguished the proceeding for quashing of FIR under Section 482 CrPC and, in that context, has opined that from such an order, no appeal would lie. On the contrary, the High Courts of Gujarat and Delhi, on the basis of the law laid down by this Court in Ishwarlal Bhagwandas (supra), have laid emphasis on the seed of initiation of criminal proceeding, the consequence of a criminal proceeding and also the nature of relief sought

before the Single Judge under Article 226 of the Constitution. The conception of 'criminal jurisdiction' as used in Clause 10 of the Letters Patent is not to be construed in the narrow sense. It encompasses in its gamut the inception and the consequence. It is the field in respect of which the jurisdiction is exercised, is relevant. The contention that solely because a writ petition is filed to quash an investigation, it would have room for intra-court appeal and if a petition is filed under inherent jurisdiction under Section 482 CrPC, there would be no space for an intra-court appeal, would create an anomalous, unacceptable and inconceivable situation. The provision contained in the Letters Patent does not allow or permit such an interpretation. When we are required to consider a bar or non-permissibility, we have to appreciate the same in true letter and spirit. It confers jurisdiction as regards the subject of controversy or nature of proceeding and that subject is exercise of jurisdiction in criminal matters. It has nothing to do whether the order has been passed in exercise of extraordinary jurisdiction under Article 226 of the Constitution or inherent jurisdiction under Section 482 CrPC. In this regard, an example can be cited. In the State of Uttar Pradesh, Section 438 CrPC has been deleted by the State amendment and the said deletion has been treated to be constitutionally valid by this Court in Kartar Singh v. State of Punjab[41]. However, that has not curtailed the extraordinary power of the High Court to entertain a plea of anticipatory bail as has been held in Lal Kamlendra Pratap Singh v. State of Uttar Pradesh and others[42] and Hema Mishra v. State of Uttar Pradesh and others[43]. But that does not mean that an order passed by the Single Judge in exercise of Article 226 of the Constitution relating to criminal jurisdiction, can be

made the subject matter of intracourt appeal. It is not provided for and it would be legally inappropriate to think so.”

Keeping in view the above, the present appeal is dismissed for want of prosecution.

(G.S. SANDHAWALIA)
JUDGE

11.01.2023
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(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No