

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(262)

CRWP-518-2024

Date of Decision:- 15.02.2024

Mahinder

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Manu Sachdeva, Advocate,
Mr. Anupal Singh Tanwar, and
Mr. Abhimanyu Singh, Advocate for the petitioner.

ALOK JAIN, J. (Oral)

1. The present petition has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking directions to respondents No. 2 to 4 to release the detenue namely *Omwati*, who is in the illegal detention of respondents No. 5 to 10.
2. At the outset, Mr. R.K. Dhiman, Advocate has put in appearance on behalf of respondent No. 5 to 7, 9 and 10 and filed *Vakalatnama* in Court today, which is taken on record, subject to all just exceptions.
3. The present case presents an alarming situation whereby individuals who are already married, without getting a decree of divorce from their spouses enter into a relationship with some other person which ultimately has a deleterious impact on the innocent stakeholders i.e.the minor children of the married partner.

CRWP-518-2024

-2-

4. In the present case, the detenue-Omwati, who is an unmarried girl and one respondent No. 5-Charan Singh had approached this Court seeking protection of their life and liberty in CRM-M-183-2024. Since, respondent No.5-Charan Singh was a married man and having one child and as Respondent no.5 was the math teacher of the detenue-Omwati, coupled with the fact that there was no threat perception and the apparent reason for filing the said petition was only to cover up their promiscuous relationship, therefore, this Court vide its order dated 10.01.2024 imposed a cost of Rs. 50,000/- as their act and conduct had besmirched the pious relationship of a teacher and a student.

5. In the present petition, vide order dated 16.01.2024, notice of motion had been issued and respondent No. 5 along with detenue came present in the Court and vide order dated 31.01.2024 were relegated to the Mediation Centre and as per the report of the Mediator, the matter could not be settled between the parties. The specific queries were put to the detenue and respondent No. 5 which are admitted by them and read as under:

(i) Respondent No. 5 is already a married man and has one child from the said matrimonial accord and admittedly there is no decree of divorce till date passed by any Court of competent jurisdiction.

(ii) The detenue percipient of the fact that respondent No. 5 is a married man still chose and has repeated her stand to stay in relation with respondent No. 5 which amounts to admission of adultery on the part of Respondent no.5.

CRWP-518-2024

-3-

6. In all this controversy, a very important factor needs to be considered by the Court i.e. the future of the baby boy of respondent no.5 which may be jeopardized due to the act and conduct of respondent No. 5, who is depriving the child from a father's love and affection.

7. Respondent No. 5 was called upon to demonstrate as to how would he protect the well being and ensure the proper growth of the child born from his loins to which he had no satisfactory reply. A married man entering into such type of romantic entanglement not only severs the trust of his own family but most importantly has far reaching psychological impact on his progeny. This definitely would lead to ramifications which can be discerned only once the child reaches the age to understand the nature and consequences of the actions of his father.

8. It is conspicuous that respondent No. 5 is not at all perturbed about the repercussions of his actions on the future of his minor child, hence, this Court deems it to be an appropriate case where the doctrine of *parens patriae* must be invoked i.e. the Court will step in and assume the role of the guardian of the minor child to protect his interests as respondent No. 5 has practically abdicated his solemn duty as the natural guardian of the child.

9. In light of the above, keeping in view the interest of the child as paramount, the following directions are being issued:

(i) Let 50% share in all the assets (movable as well as Immovable) of respondent No. 5 be transferred in the name of the minor child of Respondent no.5 under the guardianship of his mother.

(ii) Respondent No. 5 shall submit an undertaking in compliance of the same to the Registrar General of this Court on or before 30.09.2024.

Respondent No. 5 is restrained from transferring the ownership of his assets

CRWP-518-2024

-3-

in the name of any other person till the compliance of this order is complete.

(iii) Respondent No. 5 is also directed to file the complete list of all his assets with the registry of this Court by 31.07.2024, which shall be verified by the SHO concerned under whose jurisdiction the residence of respondent No. 5 falls.

10. This Court expresses its strong reservation against the act and conduct of the detenue and Respondent no.5 as the relationship between a teacher and a student is a fiduciary one and is considered sanctimonious in our society. Articles 19 and 21 of our Constitution provide the freedom of expression and the right to life and liberty, however the rights are not ordained as absolute by the Constitution itself. They are subject to reasonable restrictions which includes adherence to the norms of decency and morality. Our Society has always considered the bond between a teacher and his/her pupil as pious but the deeds of the detenue and Respondent no.5 have sullied this revered relationship.

11. Be that as it may, the detenue being a major has willingly and voluntarily entered into a relationship with Respondent No.5, her custody cannot be held to be illegal, hence, the prayer qua the issuance of the writ in the nature of habeas corpus cannot be allowed.

12. Disposed off, in the above mentioned terms.

13. A copy of this order be sent to the Registrar General of this Court and the SHO concerned under whose jurisdiction the residence of respondent No. 5 falls, for necessary compliance.

(ALOK JAIN)
JUDGE

15.02.2024

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