

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRWP-1421-2024 (O&M)
Date of Decision:-16.2.2024

Kapil Dev ... Petitioner
Versus
The State of Punjab and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sanjeev Virk, Advocate for
Mr. Navraj Singh, Advocate for the petitioner.

Mr. Gauravdeep Singh Dhaliwal, AAG, Punjab,
assisted by ASI Hem Raj.

Mr. Saurav Bhatia, Advocate for respondents No.4 to 6.

GURVINDER SINGH GILL, J. (Oral)

1. The instant petition has been filed by the petitioner seeking issuance of a writ in the nature of Habeas Corpus so as to raid the premises of respondents No.4 to 7 in order to get recovered the detenue i.e. minor daughter of the petitioner, who according to the petitioner, had been illegally detained by respondent No.4, who is none else but wife of the petitioner.
2. At the time of issuance of notice of motion, the following order was passed on 13.2.2024:

“The petitioner has approached this Court seeking issuance of a writ in the nature of Habeas Corpus so as to raid the premises of respondents No.4 to 7, who are alleged to have forcibly detained the minor daughter of the petitioner.

Learned counsel for the petitioner submits that on account of some matrimonial discord between the petitioner and his wife, namely, Ramandeep Kaur (respondent No.4), the marriage between them was got dissolved by a decree of divorce by mutual consent dated 09.01.2024 (Annexure P-1), wherein it was stated by the parties that the custody of the minor children shall remain with petitioner No.1 i.e. the father.

Learned counsel submits that despite the said statement having been made by respondent No.4 in Court, the minor daughter of the petitioner has now been forcibly taken away on 04.02.2024 from the house of the petitioner by the private respondents.

Notice of motion for 16.02.2024.

A Warrant Officer is hereby ordered to be appointed at the expense of the petitioner, to raid the premises of respondents No.4 to 7 or any other place pointed by the petitioner so as to trace out the whereabouts of the petitioner's daughter, who is a minor. In case, it is found that minor daughter of the petitioner has been forcibly detained by respondents No.4 to 7 and does not seem to be staying with them out of her own will or is not being well kept, she be got released immediately and be lodged at Gandhi Vanita Ashram, Kapurthala Chowk, Jalandhar, till further orders.

However, in case the alleged detainee is prima facie found to be happy and comfortable residing with her mother (respondent No.4) or any of her close relatives, she need not be forced to leave those premises where she is presently found to be residing.

A report be submitted in this regard on the next date of hearing.”

3. Pursuant to passing of aforesaid order dated 13.2.2024, report of Warrant Officer has been received, wherein it has been stated that he visited the premises of respondents No.4 to 6, where the alleged detainee i.e. daughter of the petitioner as well as his wife i.e. respondent No.4 – Ramandeep Kaur were found and that he recorded the statement of alleged detainee, wherein

she categorically stated that she is living happily with her mother and wishes to reside with her.

4. In view of the aforestated position, wherein it is found that the alleged detenue is residing out of her own free will with none else but her mother and she wishes to reside there, this Court is of the opinion that issuance of any kind of direction is not warranted.
5. The instant petition stands disposed off accordingly.
6. However, the petitioner would be at liberty to have recourse to other alternate efficacious remedies as may be available to him with regard to his claim qua custody of his minor daughter.

16.2.2024
pankaj

(Gurvinder Singh Gill)
Judge

Whether reasoned/speaking

Yes / No

Whether reportable

Yes / No