



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Sr. No.104

CRWP-3340-2024 (O&M)
Date of decision : 05.07.2024

Dilsana Petitioner

VERSUS

State of Haryana and others Respondents

CORAM: HON’BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Vishal Garg Narwana, Advocate and
Mr. Arishdeep , Advocate for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

Mr. Amit Kashyap, Advocate, for respondent No.4

KIRTI SINGH, J. (Oral)

1. The present petition has been filed *inter alia* praying for protection of life and liberty of the petitioner, who was a minor girl at the time of filing of the present petition and has now turned major. The present petition had been filed through one Anish her next friend aged 32 years son of Munshi resident of Budha Bass, Mahoon, Mewat.

2. Learned counsel for the petitioner submits that the father of the petitioner and her other family members had been threatening and beating her, and were forcing her to get married to a boy of their choice. He further submits that the father of the petitioner had stopped her from going to school and pursuing her further studies and fixed her Nikah on 10.04.2024 without her consent and against her wish. It is also submitted that she was continuously being tortured by her father and other family members and on 02.04.2009, the petitioner had left her house with the help of her close relatives namely Anish and Arstoon. Family members of the petitioner were

continuously searching for her and were threatening to kill her along with

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Anish and Arstoon. Under such circumstances, the petitioner had no other option but to file the present petition.

3. On 31.05.2024 this Court ordered that the petitioner be sent to Nari Niketan, Sector 26, Chandigarh, the order which was passed by this Court has been reproduced below:-

“Parties were relegated to the Mediation and Conciliation Centre of this Court in the pre-lunch session. However a report has now been received that the parties could not reach any amicable settlement.

The parties are present in the Court today and petitioner No.1 who was a minor on the date of filing of the present petition, though now has attained the age of majority but still does not seem to be mature enough to understand the nature and consequences of her actions.

Only for the purpose of enthusing confidence in petitioner No.1, she is directed to be lodged at Nari Niketan Sector-26, Chandigarh today itself. However, Haryana Police shall get the medical examination of the detenue conducted before lodging her at Nari Niketan Sector-26, Chandigarh. The petitioner is at liberty to communicate with Anish through whom the present petition has been filed as well as her parents, if Chandigarh she so desires once every day and Nari Niketan, Sector-26, shall provide appropriate assistance qua the same.

To come up for hearing on 06.06.2024.

The learned State counsel is directed to file a reply along with the medical report.

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Petitioner No.1 shall be produced in the Court by the police authorities on the next date.

4. In compliance of order dated 31.05.2024, the petitioner was sent to Nari Niketan, Sector 26, Chandigarh for her safe custody and well being.

5. Subsequently, CRM-821-2024 was filed by the counsel for the petitioner stating that in compliance to the orders dated 31.05.2024 and 06.06.2024 the petitioner-girl was lodged lodged in Nari Niketan, Sector 26, Chandigarh. He further submits that now the petitioner has attained the age of majority i.e. 18 years on 10.05.2024. Reliance has been placed to Annexure P1 (school mark-sheet certificate) and Annexure P2 (Aadhar Card) of the petitioner to substantiate this fact.

6. He further placed reliance upon the judgment rendered by the Division Bench of this Court in LPA No.2146 of 2016 titled as **Bhim Sain Vs. State of Punjab.** Relevant portion of the said judgment reads as under:-

“That the Division bench of the Hon'ble Punjab and Haryana high court passed an order in case LPA-2146-2016 (O&M) titled as 'Bhim Sain Vs. State of Punjab order dated 21.10.2016, in which the Hon'ble court clearly mentioned that, 'We are, thus, of the considered view that an Individual even if minor would have a freedom to choose her movement and cannot be detained in Nari Niketan against her wish as this would clearly be a violate of the fundamental rights. "And " the fact that her age of attainment of majority is just around of corner barely a week from the date, the impugned order was passed should have been sufficient reason for learned single

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judge to ascertain her wish to permit her to go with the present appellant, who intends to perform marriage with her. Evidently a girl or an individual barely a week from the date of attaining majority would be competent to express her wishes as she would after attaining the age of majority".

7. He further placed reliance upon the judgment passed in **Balwinder Singh @ Binder Vs. State of Punjab and others, 2008 (3) RCR (Criminal) 1** where it has been held that “a girl whether major or minor cannot be kept in Nari Niketan against her wish”.

8. The case was taken up for hearing on 03/07/2024 vide which, the State counsel was ordered to ensure the presence of the petitioner in Court today i.e. 05.07.2024. Today, in compliance of order dated 03.07.2024, the concerned officials have produced the petitioner before this Hon’ble Court.

9. The petitioner-girl, who is present in court today, has made a statement that she wishes to reside with Arstoon and her husband Anish as she is being threatened by her family members who were not permitting her to pursue her further education, and were forcing her to marry a boy against her choice. She has further stated that she had willingly and without any force or coercion had left the house of her parents and now, she is happy living away from her parents and wants to reside with Arstoon and Anish only.

10. Today, Arstoon and Anish are also present in Court in person and they have made a statement that they are willing to keep the petitioner in their safe custody and look after her and fulfill all her needs.

11. In view of the above and considering the facts of the case and the statements made by the petitioner and next friends, and considering that

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the petitioner is now a major who is at liberty to go to the place of her choice, this Court deems it appropriate to dispose of the present petition allowing the petitioner to reside at a place of her choice. However, in case the petitioner faces any threat to her life and liberty, she can approach this Court again.

12. The concerned officials of Nari Niketan, Sector 26 Chandigarh are hereby ordered to release the petitioner forthwith.

13. While perusing the case file, it has come to the notice of this Court that as per the service report attached with the case file wherein it has been mentioned that Arstoon wife of Anish, who is present in Court today, had expired two years ago while giving birth to a child. Arstoon has supplied her Aadhar Card to establish her identity before this Court and perusing the same, this Court has come to the conclusion that this person present in Court today is Arstoon wife of Anish, which renders the aforestated report to be false. On a query raised to the learned State counsel, he submits that the report was submitted by the concerned police official i.e ASI-Narinder Singh, Police Station Rojka Meo, Nuh at Mewat.

14. In view of this false report that has been submitted to the Registry of this Court, the Superintendent of Police, Nuh at Mewat is directed to file an appropriate affidavit explaining this anxious situation and conduct enquiry and also take a strict action against this delinquent official.

15. Learned State counsel is directed to produce the affidavit of the Superintendent of Police, Nuh at Mewat within a period of four weeks from today explaining the situation in which such a report was submitted by the concerned police official and also the action taken against the delinquent

official.

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16.

A copy of this order be given to learned counsel for the petitioner(s) under signature of the Bench Secretary of this Court.
17.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

05.07.2024
Ramandeep Singh

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