

2024:PHHC:053543

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

122

CRWP-3315-2024
Date of Decision : April 22, 2024

NIRMAL DEVI

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. R.K.Poonia, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

KULDEEP TIWARI, J. (Oral)

1. On 19.4.2024, the following order was passed:-

“1. Through the instant petition writ of habeas corpus is invoked for appointment of Warrant Officer, to search for the detenue, who is a minor daughter of the present petitioner, and has been illegally kidnapped by respondent No.7.

2. It transpired from the record that respondent No.7, against whom a number of criminal cases have been registered, and even in regard to kidnapping, of the minor detenue, a case bearing FIR No.45 dated 11.02.2021, under Sections 363, 365, 366-A, 506 120-B of IPC, and under Sections 8 and 17 of SC and ST Act, was registered, and thereupon, the minor girl was recovered, and even anticipatory bail preferred by respondent No.7, was dismissed, and non-bailable warrants were issued against him. The audacity is such that respondent No.7, despite failing to get any anticipatory bail, managed to kidnap the minor girl on

01.03.2024, which resulted in registration of another FIR No.106 dated 01.03.2024, under Section 365 IPC, at Police Station Sadar, Thanesar, District Kurukshetra.

3. In compliance to the order dated 12.04.2024, today report(s) by way of affidavit(s) dated 19.04.2024 of Sh. Sandeep Garg, IPS, Senior Superintendent of Police, District SAS Nagar i.e. respondent No.5, and affidavit dated 18.04.2024, of Sh. Surinder Singh Bhorla, IPS, Superintendent of Police, Kurukshetra has been filed on behalf of respondent No.3, respectively, both are taken on record.

4. A perusal of the said reports (supra), reveals that despite best efforts by both the Police Department of State of Punjab and Haryana, they were unable to locate respondent No.7, and the minor girl of the petitioner. It seems that respondent No.7, very cleverly managed to hide himself, and the minor girl from the Police of two States.

5. Today Mr. Ravinder Bangar, Advocate appears on behalf of respondent No.7, and files his duly executed vakalatnama, and has also placed on record the order passed by the Co-ordinate Bench i.e. CRM-M-11549-2024, and submits that they have been protected by order dated 04.03.2024, passed in above preferred petition, as the alleged detainee wants to solemnize marriage with respondent No.7.

6. Order dated 27.02.2024, passed by the Co-ordinate Bench is taken on record, and marked as Annexure-A. A perusal of the said order, reflects that no observation has been made regarding any protection to respondent No.7, with regard to offence which he has committed. The only direction which was made, is upon the official respondent-State, to consider the petition

filed by respondent No.7, as a representation, and thereupon, to take appropriate action. The relevant part of the same reads as under:-

"Keeping in view the facts and circumstances of the case, respondent No. 1-State is directed to treat this petition as a representation on behalf of the petitioners and further to assess the threat perception to the petitioners and after considering the same, the Superintendent of Police, concerned shall take appropriate action in accordance with law."

7. *This Court has put a specific query to learned counsel for respondent No.7, that whether, respondent No.7 is ready and willing to produce the minor girl in the Office of Superintendent of Police, Kurukshetra, within 06 hours from now, to which his answer was in affirmative, and therefore, the respondent No.7, forthwith within 06 hours, produce the minor girl in the office of Superintendent of Police, Kurukshetra, and thereupon the Superintendent of Police, Kurukshetra, will comply with the provisions as envisaged under the Juvenile Justice Act, 2015. The Superintendent of Police, Kurukshetra, shall also get the statement of minor girl recorded before the learned CJM/Duty Magistrate concerned.*

8. *Since it is not under dispute that the alleged detenue is below the age of 18 years, therefore, the learned CJM/Duty Magistrate concerned, thereupon take appropriate measures in consonance with the provisions as envisaged under the Juvenile Justice Act, 2015, and direction passed in **P..... Minor Through Vikram v. State of Haryana and another (CRWP-2139-2022 (O&M), decided on 28.03.2022).***

9. *Let the report in this regard be filed on*

CRWP-3315-2024

-4-

22.04.2024, by Superintendent of Police, Kurukshetra, along with the statement of the minor girl, under Section 164 Cr.P.C.

10. Further the Police is free to take the legal action, as per law against respondent No.7, as no protection is granted to him by this Court. It is further made clear that in case respondent No.7 fails to produce the minor girl in the office of Superintendent of Police, Kurukshetra, within 06 hours from now, and Senior Superintendent of Police, Mohali, and Superintendent of Police, Kurukshetra, shall make all efforts to locate respondent No.7, and thereon, take an appropriate action, and comply with the above directions.

11. To be shown in the urgent list.

12. A copy of this order be given to both the State counsels of Punjab and Haryana for immediate compliance under the signatures of Bench Secretary/Special Secretary of this Court.”

2. In pursuance of the directions issued by this Court, compliance report by way of affidavit of Superintendent of Police, Kurukshetra has been filed, the same is taken on record. A perusal of the same make revelations that the alleged detainee was produced by the counsel for respondent No.7 before the Superintendent of Police concerned and thereupon, her statement was recorded under Section 164 Cr.P.C. before the learned Illaqa Magistrate concerned. The relevant extract of the statement, which is attached with the affidavit as Annexure R-1, reads as under:-

“Q What you want to tell”

Ans. I have left my house on 01 March 2024 and also

taken Vikram with me but he was denied and stated when I will be attained age of 18 years then we go. I want to marry with him and I am not willing to go back in my house. Both FIRs be cancelled and I am safe with him.”

3. The compliance report (supra) also makes revelations that after counselling of the alleged detainee, as conducted by the Child Welfare Committee, Kurukshetra, the minor girl, was handed over to the petitioner-Nirmal Devi, who is the natural guardian as well as the mother of the minor girl, and now she is living peacefully in the custody of her mother. Efforts were also made to trace out respondent Nos. 7 so that appropriate action in pursuance of the FIR registered against them can be taken.

4. Since the grievance of the present petitioner has been redressed, therefore, no further action is required to be taken in the instant petition, and the same is, hereby, **dismissed**. However, a direction is issued upon the present petitioner that no harm shall be caused to the alleged detainee(minor girl).

(KULDEEP TIWARI)
JUDGE

April 22, 2024
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No