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

CRWP-5716-2023

Date of Decision:- 22.07.2024

POONAM BAGLA

....Petitioner

Vs.

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Amandeep Singh Jawandha, Advocate for the petitioner.

Mr. Neeraj Madaan, Sr. DAG, Punjab.

Mr. Aabhas Prabhakar, Advocate for
Mr. G.S. Madaan, Advocate for respondent Nos.8 and 9.

AMARJOT BHATTI, J. (Oral)

1. Petitioner Poonam Bagla filed criminal writ petition under Article 226 of the Constitution of India for issuance of writ in the nature of habeas corpus with roving writ and for appointment of Warrant Officer to release minor son of petitioner namely Karanvir Bagla, aged about 1 ½ years from the illegal custody of respondent Nos.8 and 9.

2. Learned counsel for petitioner argued that petitioner got married with Narinder Kumar respondent No.7 on 07.06.2020. Out of this wedlock, Karanvir Bagla was born on 03.09.2021. Husband of petitioner went to Dubai on 06.05.2022. Due to matrimonial dispute, she went to her parents' house at village Behram, Tehsil Banga, District SBS Nagar on 05.10.2022



along with minor child. She started living in her parental house. Her father-in-law and mother-in-law i.e. respondent Nos.8 and 9 visited the petitioner on 31.11.2022 at about 11 am and took away minor child for check up from Doctor. Thereafter, they did not return home nor they answered her phone calls. Matter was reported to the police and accordingly FIR No.007 dated 21.01.2023 was registered under Section 346 and 34 IPC, Police Station Behram, District SBS Nagar, which is Annexure P-1. Narinder Kumar husband of petitioner filed a petition under Section 7 and 8 of Guardians and Wards Act, 1890 against petitioner and her family members before Family Court, Camp at Phillaur through power of attorney holder. Copy of petition bearing No.GW/14/2023 dated 20.01.2023 is Annexure P-2. Learned Additional Principal Judge, Family Court-1, Camp Court at Phillaur passed order dated 20.01.2023. Copy of order is Annexure P-3. Respondent Nos.8 and 9 in order to harass the petitioner filed false cases against her and her child was kept in illegal confinement. They also filed Civil Suit No.875/2022 titled as “Balbir Chand and another Vs. Poonam Bagla” in which notice was issued to her. Copy of plaint is Annexure P-4. Petitioner being mother of minor child is entitled to the custody of her minor son. Ultimately, she has filed present petition.

3. Warrant Officer was appointed vide order dated 05.06.2023 to release minor son of petitioner namely Karanvir Bagla aged about 1 ½ years from illegal custody of respondent Nos.8 and 9 forthwith from their residence or any other place pointed out by the petitioner. Thereafter, respondent Nos.8 and 9 appeared through their counsel and produced the child Karanvir Bagla in the Court. Accordingly, matter was referred to



Mediation and Conciliation Centre to explore the possibility of compromise as per order dated 09.06.2023. Mediation and Conciliation Centre submitted report that matter could not be resolved despite best efforts.

4. Learned counsel representing State filed status report. It is submitted that FIR No.7 dated 21.01.2023 under Section 346 and 34 IPC was lodged against respondent Nos.8 and 9, Police Station Behram, District SBS Nagar and investigation was started. They were joined in investigation and were formally arrested and released on bail. After completion of investigation, challan has been presented and chargesheet has been framed as per order dated 23.08.2023. Respondents were acquitted by the trial Court vide judgment dated 24.04.2024.

5. Learned counsel representing respondent Nos.8 and 9 argued that Narinder Kumar is working in Dubai. He filed petition under Sections 7 and 8 of Guardians and Wards Act against Poonam Bagla and others which is pending before Principal Judge, Family Court, Jalandhar, Camp Court at Phillaur wherein Poonam Bagla suffered statement that she had no objection if application under Order 39 Rules 1 and 2 CPC was allowed and accordingly application was disposed of vide order dated 03.11.2023. Copy of said order is also produced in the Court, which is taken on record. Therefore, at this stage, petitioner is not entitled to the custody of minor child who is residing with his grand-parents.

6. I have considered the arguments and have gone through the record. Petitioner Poonam Bagla on account of matrimonial dispute shifted to her parents house along with minor child on 05.10.2022. As per the facts, respondent Nos.8 and 9 visited parental house of petitioner and took



away minor child on 31.11.2022 on the pretext of medical check up and thereafter did not return home. Petitioner tried to contact her in-laws but they did not answer the phone calls and their house was also locked from outside. Admittedly, FIR No.7 dated 21.01.2023 was registered under Section 346 and 34 IPC at Police Station Behram, District SBS Nagar. It is also matter of record that Narinder Kumar through Power of Attorney holder filed petition under Sections 7 and 8 of Guardians and Wards Act on 20.01.2023 which is pending before Principal Judge, Family Court, Jalandhar Camp Court at Phillaur. At present minor child is in the custody of respondent Nos.8 and 9. Counsel for respondent Nos.8 and 9 has placed on record copy of order dated 03.11.2023 passed in the aforesaid petition where respondent No.1 i.e. Poonam Bagla herself gave her no objection to the application filed by petitioner for taking illegal, forcible custody from attorney of petitioner i.e. Balbir Chand except in due course of law. Efforts were also made for reconciliation, as a result matter was refereed to Mediation and Conciliation Centre but it could not bear any fruitful result.

7. Considering the aforesaid factual position, present writ petition in the nature of habeas corpus for handing over custody of minor child to petitioner from the hands of respondent Nos.8 and 9 has rendered infructuous. Petitioner herself gave her no objection to the custody of minor child to respondent Nos.8 and 9 during the pendency of petition under Section 7 and 8 of Guardians and Wards Act. The dispute regarding custody of child will be finally disposed of by the Family Courts after appreciation of facts and evidence led by the parties. It will not be appropriate to give any direction in this petition. Therefore, with this observation, present petition stands dismissed as having rendered



infructuous.

8. My observations are made for the disposal of present criminal writ petition and it will have no bearings on the merits of cases pending between the parties.

9. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

22.07.2024

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned: Yes/No.
Whether reportable: Yes/No